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### First and Second Reading and Referral

**HB 2006**, relative to the state 10-year transportation improvement plan, the exemption of highway projects from eminent domain, improvements on the FE Everett Turnpike/I-293 and certain segments of N.H. 101, and a bridge crossing the Merrimack. (Capital Budget)

**Out of Recess.**

### LATE SESSION

Senator Clegg moved that the Senate adjourn from the late session.

**Adopted.**

**Adjournment.**

*April 20, 2006*

The Senate met at 10:00 a.m.

A quorum was present.

The Reverend David P. Jones, chaplain to the Senate, offered the prayer.

Good morning. I have some friends to invite to come stand with me this morning. Would you all come all the way up here, please? These are the third and fourth graders from the Wells Memorial School in Harrisville, and if you don't know what it's like to be lobbied, here you go. And I would remind you not one of these kids voted for you. But how you vote in a few minutes will determine whether their parents ever vote for you again. You ought to be. Pumpkins are a fruit with which you can do a lot of different things. You can eat the seeds. You can plant the seeds. You can use them for decorations. You can make food out of them. You can carve them into terrifying facial images and put candles in them. But most of all this day, the pumpkin should remind you of why it is you sit in these twenty-four seats 'cause here's the reason right here. So don't forget, however you vote today, and I dare you, I dare you, that however you vote today on this bill or any other bill, remember this. These are the little seeds that how you act here determines how well they will germinate for the rest of their lives, and so be very, very careful. Let us pray:

*Great God, as Peanuts waited in the pumpkin patch for the arrival of the Great Pumpkin, give us patience, give us expectation and give us gratitude for all the gifts that we are to one another, and make us wise in how we use the fruit that comes into our lives.* Amen

Senator Gottesman led the Pledge of Allegiance.

### INTRODUCTION OF GUESTS

### COMMITTEE REPORTS

**HB 1111**, designating the pumpkin as the New Hampshire state fruit. Banks and Insurance Committee. Ought to pass, Vote 5-0. Senator Flanders for the committee.

**SENATOR FLANDERS:** Thank you, Mr. President and members of the Senate. Again, it's my privilege to ask you to support an ought to pass House Bill 1111. A couple of things that I would like to explain, the crew that went through, they're the only group of lobbyists who presented a different story in the House and a new story in the Senate. And I was talking with some lobbyists last night. They say, "We use the same line in both places." These youngsters, what they presented to us in the Senate, was how making the pumpkin a state fruit would bring revenue in.

And they came in and they showed us that at gift shops you could sell cups with pumpkins on it, and t-shirts with pumpkins on it, and pencils with pumpkins on it. But their main thing was they designed a plate, a pumpkin plate, and it says, "Live Free or Die 1111," with a pumpkin on it. So they didn't miss a trick. So let me get back to the...The committee had heard compelling testimony on the history of the pumpkin in New Hampshire, making it an appropriate choice for the official state fruit. We were also presented with several creative ideas on how the pumpkin could generate revenue as the official state fruit. The Banks and Insurance Committee recommends the legislation be adopted and asks your support. And may I just finish by saying that don't ask questions to why this ended up in Banks and Insurance because it really came there because I asked for it. And again, I congratulate the youngsters. I congratulate the teacher, and I ask for a roll call vote.

SENATOR MARTEL: Thank you very much Mr. President. I just wanted momentarily to read a little card that I received and I'm sure we all received these, and this one's from a can't make up what it says. But I think it's Erin from Alexandria, New Hampshire. It says, "Dear Honorable Andre' Martel: The name pumpkin originated from "Popo" the Greek word for large melon." So what you just discussed earlier, these children already had it on the cards that they sent to us. So they're already up-to-date on all of the history and everything else. So thank you very much, Mr. President.

SENATOR BOYCE: Thank you. I hate to be the one that brings this up, but I think that this body has much more important things to do. And I think that these kids have more important things to do. It's good that they're here learning about the state government, but I think they've been here too much. I think that history will look upon this more as the state Senate looking like fruits rather than the pumpkin. Thank you. I think the strawberry is much more apropos because we do have native strawberries. I don't believe the pumpkin was a native fruit. Thank you.

SENATOR FLANDERS: I take exception. I think we've done a lot more foolish bills in this chamber than this pumpkin bill. I don't think this would be the number one.

SENATOR BARNES: Mr. President, I thought we were in the voting mode and not the debate mode. It was seconded. The roll call was seconded.

SENATOR GATSAS (In the Chair): I understand, but we didn't even get through the discussion mode.

SENATOR BARNES: Oh, I'm sorry. I thought we were through that. I thought we were in the voting mode.

SENATOR CLEGG: Thank you, Mr. President. On behalf of most of us in the Senate, I'd like to congratulate the teacher and the children for all the hard work they did. It was a civics lesson for you, but it was also a civics lesson for us and we greatly appreciate the effort that you've put forth to show us that hard work accomplishes something. Thank you.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I, too, want to say to the students. I talk about civics. Having been a teacher all of my life and having taught civics, this is the perfect example of civic engagement, and civic engagement begins at a very early age. I'd like it to begin at kindergarten and go right through the rest of our lives. You're a great example for all of us, and I commend you for the hard work and the due diligence that you have put together. And you've added frosting to the

cake by serenading Senator Clegg. I mean that, in essence, is like the epitome of success. So great job, well done, and keep the American dream alive and well. Thank you, Mr. President.

SENATOR LARSEN: I, just too, have to rise to congratulate the students for their good advocacy. Some of us represent apple orchards in this state, and some of us came to the hearing about the bill and thinking, "Well, why shouldn't the state fruit be an apple?" But through your good advocacy and education process of all of us, we learned that many states have an apple, but no state has the pumpkin. So I have come to agree with you through your good advocacy. Keep it up.

**The question is on the adoption of the committee report of ought to pass.**

**A roll call was requested by Senator Barnes.**

**Seconded by Senator Flanders.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: Boyce.**

**Yeas: 23 - Nays: 1**

**Adopted.**

**Ordered to third reading.**

**HB 678-FN**, relative to the insurance premium tax. Banks and Insurance Committee. Ought to pass, Vote 3-0. Senator Flanders for the committee.

SENATOR FLANDERS: Thank you, Mr. President. I believe we're on 678.

SENATOR GATSAS (In the Chair): 678.

SENATOR FLANDERS: This is an interesting bill that came before Banks and Insurance, and you'll notice that the vote was 4-0...3-0. This was not a strong vote, and let me explain why. There was an awful lot of money involved in this, so we decided we would look at this only as a policy. And after hearing all the evidence, it was felt that the policy is a good idea. But when they started getting into the money end of it, it became very complicated to how much money it was going to cost and how much money is going to come in. So we made an agreement in our committee that we would move ought to pass and refer to Finance so they can...and the people who have been over all of the figures and so forth will go to the Finance Committee and testify and try to convince them this is a good idea. So we believe that the state would benefit from the policy portion of it. It would help the insurance companies in Keene who did come and testify that they probably will move out. We have some evidence that showed that Chubb Life moved out maybe because of this. We lost New Hampshire Insurance Company which was 1600 jobs out of Manchester. I'm not going to say that was because of the premium tax, but we do have, and we also had DRED testify that they have somebody ready to come in with new jobs if indeed the premium tax is reduced. And we had some people in Maine come and said they would move their company to New Hampshire from Maine if we did this. So basically, I'm asking you to vote ought to pass on the policy portion of this bill and refer to Finance. Thank you.



SENATOR D'ALLESANDRO: Thank you, Mr. President. I just want to speak very briefly on the policy issue versus the financial issue because I think this is a very, very significant piece of public policy that we're considering. The premium tax was instituted by Frank Whelan when he was Commissioner of Insurance. Frank was a very distinguished public servant, served as our Commissioner of Health and Human Services as well as our Commissioner of Insurance. I spoke with Frank about this prior to his passing and discussed this issue in depth as to what would happen to us if this 2 percent tax were reduced. He was negative in his response, but I think we have to give everything an opportunity. Sending this to Finance and having public input on the financial nature I think, is a very significant part of the public policy. At 2 percent, we are the highest in terms of our insurance premium tax in New England. What does reducing it to 1 percent do? And remember that we're talking about reduction on an incremental basis. I went to LBA this morning and got the most recent financial statement, and when you look at the financial statement, it reads as follows, and this is why I think, as a public policy and as a financial issue, we have to be very careful. In '08, when we receive the full implications we'll reduce unrestricted revenue by \$2.4 million dollars. In '09, by \$4.2 million dollars. In 2010, \$9 million and in 2011, \$13 million. Those are very significant numbers. Now, on the other side, Revenue Administration says that we'll recover \$1 million in '08, \$2 million in '09, \$3 million in 2010, and \$4 million in 2011. Now that doesn't offset on a dollar for dollar basis what we're losing, but it does decrease the amount. I think we have to validate these numbers, and that's why the trip to Finance is a very, very significant one, because we're changing something that has been very, very successful for New Hampshire in terms of its revenue, extremely successful. By making this change, hopefully, we'll see an increase in revenue, we'll see more jobs, and we'll see a better economic situation. But I think we have to evaluate this. And I know Senator...I talked with Senator Morse about this, this morning. This is something that's very, very significant as we move forward. Thank you, Mr. President.

SENATOR EATON: Thank you. I agree very much with what Senator D'Allesandro just had to say, but I also want to mention that we have the home base for Peerless Insurance Company in Keene and the National Grange Mutual Insurance Company. The Grange has been dwindling some of its workforce, moving down to Florida. Peerless, again, both of those places are two of the largest employers in Keene, and I think the gains that we'll offset coming down the road with the economic spur that we will have companies coming in will more than offset the monies that we will lose as we go along. So this is a very, very important piece to my district, also.

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

**HB 716-FN**, relative to securities regulation. Banks and Insurance Committee. Ought to pass with amendment, Vote 3-0. Senator Gottesman for the committee.

Sen. Flanders, Dist. 7

**April 11, 2006**

**2006-1716s**

**06/01**

### **Amendment to HB 716-FN**

Amend the bill by replacing section 1 with the following:

1 "Issuer-Dealer" Expanded. RSA 421-B:2, XIII-a is repealed and re-enacted to read as follows:

XIII-a. "Issuer-dealer" means any person including, but not limited to, a corporation, partnership, limited liability company, association, joint stock company, or trust where the interests of the beneficiaries are evidenced by a security, unincorporated organization, government, political subdivision of a government, or any other entity, organized in this state or having its principal office in this state, and issuing its own securities for sale directly to any member of the general public who is not a general partner, executive officer, manager, or director of the issuer.

Amend RSA 421-B:3, II as inserted by section 2 of the bill by replacing it with the following:

***II. For purposes of this section, a fraudulent or deceptive device or contrivance shall include, but shall not be limited to:***

***(a) Representing in the offer or sale of securities, in writing or orally, that there is a guarantee against risk or loss.***

***(b) Inducing excessive trading in a customer's account, or inducing trading beyond that customer's known financial resources.***

***(c) Effecting transactions in the account of a customer without his or her knowledge or maintaining discretionary accounts without written authorization.***

Amend RSA 421-B:5, V-VI as inserted by section 4 of the bill by replacing them with the following:

V. Using information in violation of Rule 10b-5 of the Securities Exchange Act of 1934 about an issuer, learned from the issuer's officers, directors, or key employees, which is not generally available to the public and which would significantly affect the market price of the issuer's securities for personal benefit, directly or indirectly, in the offer, sale, or purchase of the issuer's securities, as a basis for making a recommendation regarding a security.

VI. Creating an atmosphere of false supply or demand in a market for publicly traded securities or engaging in market manipulations.

Amend RSA 421-B:5, IX as inserted by section 4 of the bill by replacing it with the following:

IX. Selling or soliciting the purchase of one security from a market in publicly traded securities conditioned upon the customer's agreement to purchase another security.

Amend RSA 421-B:17, II(a)(1) as inserted by section 15 of the bill by replacing it with the following:

(a)(1) Any non-issuer transactions, whether or not effected by or through a broker-dealer resulting in the completion of 5 or fewer sales of securities of a single issuer by the same non-issuer within any period of 12 consecutive months. The secretary of state, on a case-by-case basis, may by rule or order, retroactively or prospectively, increase the number of persons to whom sales may be made under this exemption.

Amend the introductory paragraph of RSA 421-B:17-a as inserted by section 18 of the bill by replacing it with the following:

The following standards shall apply to all registered offerings of securities and to any exempt offerings which require a filing with the secretary of state other than the filing of the notice described in RSA 421-B:11, I-a(e), except as provided by RSA 421-B:6, I-b:

Amend the bill by replacing section 31 with the following:

31 Effective Date. This act shall take effect July 1, 2006.

SENATOR GOTTESMAN: Thank you, Mr. President. I move House Bill 716 ought to pass as amended. Our securities laws have not been reviewed or updated in thirty years. This bill will re-codify and modernize our laws bringing them in line with federal law. The bill clarifies certain anti-fraud provisions and recordkeeping requirements for investment advisors. It also clarifies the licensing process for investment advisors, broker dealers, and New Hampshire business entities that issue securities. The bill also includes an important revision to auditing requirements which regard to businesses that issue securities. New Hampshire has not seen any instances of fraud in this area. Therefore reducing the frequency of required audits will allow the Division of Securities Regulation to divert their resources to other areas where they have seen more incidences of fraud. The bill was requested by the Secretary of State's Office. The Banks and Insurance Committee recommends that this legislation be adopted as amended and asks your support.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1592-FN**, making certain changes in the insurance laws. Banks and Insurance Committee. Interim Study, Vote 6-0. Senator Barnes for the committee.

### **MOTION TO TABLE**

Senator Barnes moved to have HB 1592-FN laid on the table.

**Adopted.**

### **LAID ON THE TABLE**

**HB 1592-FN**, making certain changes in the insurance laws.

**HB 1634-FN**, making technical changes to the law governing the New Hampshire retirement system. Banks and Insurance Committee. Ought to pass, Vote 4-0. Senator Gottesman for the committee.

SENATOR GOTTESMAN: Thank you, Mr. President. I move House Bill 1634 ought to pass. This bill was a request of the New Hampshire Retirement System and makes various technical changes to the laws governing the Retirement System. The changes correct certain typographical errors, create uniformity, and clarify procedure. The Banks and Insurance Committee recommends that this legislation be adopted and asks your support. Thank you.

**Adopted.**

**Ordered to third reading.**

**HB 1652-FN**, relative to certain insurance claims. Banks and Insurance Committee. Ought to pass, Vote 5-0. Senator Barnes for the committee.

SENATOR BARNES: Thank you, Mr. President. I move House Bill 1652 ought to pass. This bill will clarify when an insurer can impose a retroactive denial of a previously paid claim beyond eighteen months. The bill is also expected to rectify a situation where out-of-state carriers were not subject to the same rules and regulation as New Hampshire carriers, thus placing the out-of-state carriers in a more favorable position. The Banks and Insurance Committee, on a 5-0 vote, asks your help in passing this piece of legislation. Thank you.

**Adopted.**

**Ordered to third reading.**

**HB 1681-FN**, establishing the unused prescription drug program. Banks and Insurance Committee. Ought to pass with amendment, Vote 6-0. Senator Foster for the committee.

**Banks and Insurance**

**April 11, 2006**

**2006-1744s**

**01/09**

**Amendment to HB 1681-FN**

Amend RSA 318:58, I as inserted by section 1 of the bill by replacing it with the following:

I. Any patient, or other person licensed pursuant to RSA 318:42, II and acting on behalf of the patient, may donate unused prescription drugs and medical devices to the program.

Amend RSA 318:58, III(b) and (c) as inserted by section 1 of the bill by replacing them with the following:

(b) Any hospital, nursing home, hospice, or outpatient clinic licensed pursuant to RSA 151;

(c) New Hampshire hospital, Glenclyff home for the elderly, New Hampshire veterans home, and the state and county correctional facilities, and

(d) Any licensed prescriber of prescription drugs pursuant to RSA 318:42, II.

Amend section 1 of the bill by inserting after RSA 318:59 the following new section:

318:60 Limited Immunity. Accepting or dispensing of a prescription drug manufactured by the prescription drug manufacturer that is donated by any entity pursuant to this subdivision shall not subject a prescription drug manufacturer to criminal or civil liability for injury, death, or loss to person or property for failure to transfer or communicate product or consumer information or the expiration date of the donated prescription drug, or for damages related to improper storage of the donated prescription drug or use after the expiration date. Except as provided in this section, nothing in this subdivision shall in any way limit liability that would have existed under the original prescription.

SENATOR FOSTER: Thank you, Mr. President. I move HB 1681 ought to pass with amendment. This bill will establish an unused prescription drug program in the state of New Hampshire. Many other states have similar programs whereby unused, unopened prescription drugs that have not been in the possession of the individual to whom they were prescribed can be donated back to a participating pharmacy. The drugs can then be dispensed to certain uninsured and underinsured persons. Under this bill, only certain licensed entities such as nursing homes, hospitals, hospices, and outpatient clinics will be able to collect and donate the drugs on behalf of the patient. The reason for this provision is that, once the drugs are in the possession of the patient, there is no way to insure that they have been properly stored and not tampered with. The committee heard testimony that the prison throws away \$20,000 worth of prescription drugs each month alone. This program could add significant savings for the state. The amendment adds protection for drug manufacturers against liability in cases where drugs have been donated, and they've somehow been tampered with in the process. It does not change the limited liability that would have existed under the original prescription. The Banks and Insurance Committee recommends that this legislation be adopted as amended and asks for your support. Thank you.

SENATOR BOYCE: I'm a little mystified because I remember, in 1997, I think my first year in the House, I actually had a bill that the Department, HHS, came in and asked that there be an amendment to my bill which actually did away with the provision that said that they could take drugs that were somehow turned over to the Department and could use them for these type of purposes, and they asked us to kill...remove that provision because they didn't want to take the responsibility for drugs that had been out of the control of the pharmacist or controlled warehouse or something, and they asked us to remove that provision and now we're putting it back. I'm just confused.

SENATOR FOSTER: The difference could be that, as I understand it, these prescription drugs would never be in the possession of the patient. They would be in a storage area that are being held say at a nursing home for the benefit of the patient but not actually in the patient's control. So that could be the difference. And it could just be that times have changed. 1997 was awhile ago. A lot of states do have this program.

SENATOR BOYCE: Okay. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

SENATOR GATSAS (In the Chair): Without exception, we're going to take a bill out of order, 1711 out of Executive Departments.

**HB 1711-FN**, relative to the regulation of fuel gas fitters. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 5-0. Senator Kenney for the committee.

**Senate Executive Departments and Administration**

**April 12, 2006**

**2006-1794s**

**10/05**

### **Amendment to HB 1711-FN**

Amend the bill by replacing section 3 with the following:

3 New Subdivision; Fuel Gas Fitters. Amend RSA by inserting after RSA 153:26 the following new subdivision:

#### **Fuel Gas Fitters**

153:27 Definitions. In this subdivision:

I. "Commissioner" means the commissioner of the department of safety.

II. "Fuel gas fitter" means a hearth system installation and service technician, a liquefied propane installation technician, a liquefied propane service technician, a natural gas installation technician, a natural gas service technician, or a piping installer regulated by this subdivision.

III. "Fuel gas fitting" means the installation, repair, alteration, service, demolition or removal of pipes, fixtures, fittings, appliances, or apparatus necessary for supplying natural gas or propane for residential or non-residential use from the point of delivery and all gas piping before connection to the combustion zone and including the applicable venting of flue gases to the outside atmosphere and the provisions for air for combustion and ventilation.

IV. "Hearth system installation and service technician" means any person engaged in the installation, servicing, and repair of liquefied propane or natural gas hearth appliances and venting systems.

V. "Liquefied propane installation technician" means any person engaged in the installation of inside and outside piping from the outlet of the gas meter or second stage regulator or residential and non-residential heating equipment systems or water heating systems using liquefied propane gas.

VI. "Liquefied propane service technician" means any person engaged in the servicing and repair of inside and outside piping from the outlet of the gas meter or second stage regulator or residential and non-residential heating equipment systems or water heating systems using liquefied propane gas.

VII. "License" means any license issued pursuant to this subdivision, including any specialty license.

VIII. "Natural gas installation technician" means any person engaged in the installation of inside and outside piping from the outlet of the gas meter or second stage regulator or residential and non-residential heating equipment systems or water heating systems using natural gas.

IX. "Natural gas service technician" means any person engaged in the service and repair of inside and outside piping from the outlet of the gas meter or second stage regulator or residential and non-residential heating equipment systems or water heating systems using natural gas.

X. "Person" means a natural person, corporation, partnership, association, trust, or other entity capable of holding title to real property, or any combination thereof.

XI. "Piping installer" means any person engaged in the installation of liquefied propane gas or natural gas piping or who is a New Hampshire licensed plumber, approved by the commissioner through affidavit, experience, education or training in the use of NFPA 54, national fuel gas code as adopted pursuant to RSA 153:5 in the state fire code.

153:28 Powers and Duties of the Commissioner; Rulemaking.

I. The commissioner shall adopt rules under RSA 541-A necessary for the proper performance of the state fire marshal's duties to implement the licensure requirements established in this subdivision, which shall include the following:

(a) Standards regarding education or its equivalent, experience requirements, and testing requirements for applicants for initial licensure for the following specialty licenses:

- (1) Hearth system installation and service technician.
- (2) Liquefied propane installation technician.
- (3) Liquefied propane service technician.
- (4) Natural gas installation technician.
- (5) Natural gas service technician.
- (6) Piping installer.

(b) Standards for license renewal and continuing education requirements. Continuing education requirements may be fulfilled in full or in part by existing training programs approved by the commissioner. The rules shall address continuing education requirements for each specialty license, including but not limited to the number of hours of continuing education for each specialty license, and education applicable to holders of multiple specialty licenses.

(c) The commissioner shall adopt rules relative to the establishment of application fees for licensure, for renewal, and for late renewal of licenses under this subdivision. The fee for examination by third parties shall be separate from the fees established by the commissioner.

(d) After the first year, fees shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses

of the previous fiscal year. Fees shall be deposited in the fire standards and training and emergency medical services fund, established by RSA 21-P:12-d.

II. The commissioner shall adopt technical standards for fuel gas fitting by rule under RSA 541-A. The state fire marshal shall adopt the most recent edition of the national fuel gas code adopted by the state under RSA 153:5.

III. The state fire marshal shall administer, and enforce the provisions of this subdivision. The heating system certification advisory committee established under RSA 153:16-c shall assist the state fire marshal in carrying out the duties under this subdivision by providing advice regarding:

(a) Developing rules required for this subdivision.

(b) Implementing the licensing requirements under this subdivision.

#### 153:29 Examinations; Licenses.

I. The commissioner shall establish, through rulemaking pursuant to RSA 541-A, the nature of the examinations required for issuance of fuel gas fitter licenses. The scope of such examinations and the methods of procedure shall be prescribed by the commissioner. This may include an outside organization approved by the commissioner.

II. Each license issued by the commissioner shall identify which of the following special licenses applies to the licensee.

(a) Hearth system installation and service technician.

(b) Liquefied propane installation technician.

(c) Liquefied propane service technician.

(d) Natural gas installation technician.

(e) Natural gas service technician.

(f) Piping installer.

III. No licensee shall engage in any activity not covered by his or her specialty license.

IV. The licensee shall have in his or her possession a current biennial license issued by the commissioner. The license shall be available for inspection on request. The commissioner shall issue both a wall license and a license suitable to be carried by the individual licensee.

#### 153:30 Expiration and Renewal.

I. Licenses shall be renewed as follows:

(a) All licenses shall expire every 2 years on the last day of the month of the holder's birth. The commissioner shall renew a valid license issued under this subdivision on receipt of an application for renewal and the required fee before the expiration date of the license.

(b) If a person fails to renew his or her license prior to expiration, the person may have the license reinstated within 90 days of its expiration by paying the reinstatement fee in addition to the renewal fee. A late fee is not required during the first 30 days of expiration.

(c) Any application received 90 days or more after the expiration of the license shall be rejected unless accompanied by proof of successful completion of the examination required under RSA 153:29 subsequent to its expiration.

(d) Applicants for license renewal shall provide to the commissioner evidence of completion of continuing education within the previous 24-month period.

II. Upon the request of a licensed fuel gas fitter who is a member of any reserve component of the armed forces of the United States or the national guard and is called to active duty, the commissioner shall place the person's license on inactive status. The license may be reactivated

within one year of the licensee's discharge by payment of the renewal fee and with proof of completion of the most current continuing education requirement unless still within the renewal period.

153:31 Emergencies. The commissioner is authorized, at his or her discretion, to waive the requirements of this subdivision for the purpose of restoring service during an emergency.

153:32 Disciplinary Action.

I. The commissioner may undertake disciplinary proceedings:

(a) Upon his or her own initiative; or

(b) Upon written complaint of any person which charges that a person licensed by the commissioner has committed misconduct under paragraph II and which specifies the grounds therefor.

II. Misconduct sufficient to support disciplinary proceedings under this subdivision shall include:

(a) The practice of fraud or deceit in procuring or attempting to procure a license to practice under this subdivision;

(b) Conviction of any criminal offense involving injury to a victim or the risk of such injury or any criminal offense involving dishonesty;

(c) Any unprofessional conduct, or dishonorable conduct unworthy of, and affecting the practice of, the profession;

(d) Unfitness or incompetence by reason of negligent habits or other causes; or negligent or willful acts performed in a manner inconsistent with the health or safety of persons under the care of the licensee;

(e) Addiction to the use of alcohol or other habit-forming drugs to a degree which renders him or her unfit to practice under this subdivision;

(f) Mental or physical incompetence to practice under this subdivision;

(g) Willful or repeated violation of the provisions of this subdivision; or

(h) Suspension or revocation of a license, similar to one issued under this subdivision, in another jurisdiction and not reinstated.

III. The commissioner may take disciplinary action in any one or more of the following ways:

(a) By reprimand;

(b) By suspension, limitation, or restriction of license for a period of up to 5 years after hearing before the commissioner or his or her designee pursuant to RSA 541-A, unless waived by the licensee;

(c) By revocation of license after hearing before the commissioner or his or her designee pursuant to RSA 541-A, unless waived by the licensee; or

(d) By requiring the person to participate in a program of continuing education in the area or areas in which he or she has been found deficient.

153:33 Appeals. Any person affected by a final decision of the commissioner may appeal such final decision pursuant to RSA 541.

153:34 Inspectors.

I. The commissioner shall have the authority to appoint such inspectors as are necessary to insure compliance throughout the state with practices consistent with the public safety and welfare.

II. An inspector appointed under this subdivision shall have the authority to enter any premises in which a fuel gas fitter subject to regulation is performing, or has completed, work regulated under this subdivision for the purpose of making such inspection as is necessary to carry out his or her duties under this subdivision. If consent for such



inspection is denied or not reasonably obtainable, the state fire marshal or his or her designee may obtain an administrative inspection warrant under RSA 595-B.

III. An inspector appointed under this subdivision may order the removal or correction of any violation of this subdivision.

IV. Whenever an inspector orders the removal or correction of a violation under paragraph III, he or she shall immediately notify the local building inspection department or administrative authority of the town where the violation is located, and further order that all the work in violation be corrected prior to continuance. The local building authority shall approve the continuation of work upon being satisfied that violations have been corrected and shall notify the inspector of such approval.

153:35 Local Enforcement. The rules adopted pursuant to RSA 153:28, may be enforced by the building inspection department or by any officer designated by the administrative authority of the city or town; provided, however, that a city or town may adopt and enforce ordinances more stringent than the rules adopted under this subdivision.

153:36 Exceptions.

I. The license requirements of this subdivision shall not apply to anyone who performs fuel gas fitting within an existing single family, stand alone structure owned or occupied by the person who performs the fuel gas fitting work, and such structure is used as the individual's primary residence. Notwithstanding any provision to the contrary, any person who is exempt under this paragraph shall perform fuel gas fitting work in accordance with applicable technical standards, and comply with any applicable code, application, and inspection requirements that may apply to the fuel gas fitting work performed.

II. The license requirements of this subdivision shall not apply to persons performing tasks covered by federal and state regulation of public utilities pursuant to 49 C.F.R. part 192 and rules of the New Hampshire public utilities commission for gas service.

153:37 Penalties.

I. Any person who performs fuel gas fitting without first having obtained a license, shall be guilty of a misdemeanor.

II. Any person who violates any rule adopted under RSA 153:28 or whoever violates any ordinance or bylaw enacted pursuant to the provisions of RSA 153:35 shall be guilty of a misdemeanor.

III. Any person which procures any license based upon inaccurate information contained on an application, or procures any license by fraud, shall be guilty of a misdemeanor.

IV. Any person who performs fuel gas fitting without first having obtained a license, or who violates any rule adopted pursuant to this subdivision, and such performance of fuel gas fitting results in serious bodily injury or death, shall be guilty of a felony.

V. The penalties in this subdivision shall not apply until after one calendar year following the effective date of rules first adopted under this subdivision.

Amend the bill by replacing all after section 4 with the following:

5 Transition; Certified Installers. Individuals certified as gas piping installers or hearth system installers under RSA 153:16-b immediately prior to the effective date of this act, shall be permitted to continue practicing as certified gas piping installers or hearth system installers for one year following the adoption of rules by the commissioner under RSA 153:28. Following the one-year period all such persons shall be required to be licensed pursuant to RSA 153:27-37.

6 Short Title. This act shall be known as “Amilia’s Law.”

7 Effective Date. This act shall take effect January 1, 2007.

**2006-1794s**

### AMENDED ANALYSIS

This bill establishes the licensure of fuel gas fitters by the commissioner of safety.

SENATOR KENNEY: Thank you, Mr. President. Excuse me. I move ought to pass with amendment on House Bill 1711, also known as “Amilia’s Law”, which establishes a licensure process for fuel gas fitters. Amilia Luhrmann passed away in an explosion in 2003 at the Luhrmann home in Moultonborough, New Hampshire due to an improper handling of the gas lines by a subcontractor. The broad support for this legislation is due in great part to the personal efforts of the entire Luhrmann family to insure that such a tragedy does not happen again. House Bill 1711 sets up a mechanism to establish training and certification programs according to national standards. The bill is designed to be self-supporting, much like the electricians’ and the plumbers’ licensing programs, with fees set to produce about 125 percent of the projected expenses. Excess income will be sent to the general fund as unrestricted revenue. The committee amended the bill to first make it known that House Bill 1711 would be called “Amilia’s Law”. Further amendments clarified that certain utilities are already regulated at the state and federal level and that the homeowners may do their own work as long as their home is a single-family stand alone structure. House Bill 1711 represents an important deterrent to people who would like to do this work without proper training, and the committee recommends ought to pass with amendment. Thank you, Mr. President.

SENATOR LETOURNEAU: I just wanted to rise in support of this bill. My son, who has a heating company that employs sixty people, he’s been in the business for twenty-five years. When I discussed this bill with him he said it was a good bill, and it was about time we did something like this to keep out what he calls the “hackers”. This particular piece of legislation will go a long way to protecting the public in this type of installations. Thank you, Mr. President.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

SENATOR LARSEN: I, too, want to rise in support of the amended House Bill 1711. As we heard in very moving testimony and well-presented by the Luhrmann family, this bill will honor the life of Amilia, their daughter. In 2003, the leaking gas pipe caused an explosion which many of us now understand and share in their loss and sense of loss. Since 1989, we have tried to pass some regulation of gas line installers. In 1999, a voluntary program went in to allow for the certification of people installing gas or oil heating equipment, but we’ve always known that they were actually handling explosive materials. And currently, in this state you can hire people to install, alter, repair, service, and remove fuel gas piping, fuel utilization equipment, and associated venting, without any minimum level of required competency in the form of certification or licensure. They can and do install devices in our homes and places of business that could explode, cause fires, and subject occupants with carbon monoxide poisoning. This is from testimony that we heard from the city of Nashua in support of the bill. It’s time, and I applaud this Senate for

taking action, and I applaud the Luhrmann family for their dramatic and significant advocacy to make what is a tragedy something that will never again happen to others in this state we hope. And I hope that all of us will be supporting this bill as amended. And we will be able to hopefully prevent those kinds of tragedies that the Luhrmanns have suffered. As again, applaud the Luhrmanns for their wonderful work and urge all of us to pass House Bill 1711 as amended.

SENATOR KENNEY: Thank you, Mr. President. As a co-sponsor of House Bill 1711 and the committee chairman for the Executive Departments and Administration Committee who oversaw this bill, it's been my privilege to work with the Luhrmann family, who have been persistent, who have been conscientious, and who have been respectful, and who have been forthcoming with the events of their family tragedy on May 24, 2003. I would also like to thank the House sponsors, Representative Mitchell, Representative Francoeur, and Representative DiFruscia and the ED & A chairman in the House, Representative Bergin, and his committee for working diligently on this legislation. Additionally, I would like to thank Richard Heed of the Attorney General's Office, John Marshall of the New Hampshire Fire Marshal's Office, Sean Murray of the New Hampshire Fires Association, and members of the Plumbers' Licensing Board, and the many other people who supported this legislation. I would also like to thank the opposition who brought out several good points, and though we disagreed in licensing, they were an integral part of this process. And finally, I'd like to thank Governor Lynch for providing a support letter for House Bill 1711. So again, I would ask the Senate to support House Bill 1711. Thank you, Mr. President.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I, too, rise in support of the legislation. I think we've seen two very, very excellent examples of civic engagement today. The first, a group of youngsters who put their heart and souls into an effort to get us to pass a state fruit. Secondly, a family, so affected by a tragic event that took place in their family that they didn't want to see this happen to anybody else. That's civic engagement. That's civic responsibility, and I think, when they can see in the public venue that their efforts come to fruition, it gives people an opportunity to say, "Government really works." We are representing the people. We are responsive to the needs of people. My father was a plumber. I can't tell you how many of those gas furnaces we installed, how many LPs we installed over the course of his lifetime, and really my early formative years, and the dangers associated if a gas furnace, or a gas water heater, or a gas stove, is improperly installed. The danger. These parents witnessed that. They saw it and did something about it. We are indebted to them because, if one life is saved because of their activities, they have made an outstanding contribution to society in general. That's something that they should be proud of. That's something that this legislature should be proud of in terms of reacting in the public good. Thank you, Mr. President.

**A roll call was requested by Senator Larsen.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.**

The following Senators voted No: Boyce.

Yeas: 23 - Nays: 1

Adopted.

Ordered to third reading.

Recess.

Out of recess.

**HB 1223-FN**, relative to the use of real estate brokers by the department of transportation. Capital Budget Committee. Ought to pass with amendment, Vote 5-0. Senator Clegg for the committee.

**Capital Budget**

**April 13, 2006**

**2006-1815s**

**06/01**

### **Amendment to HB 1223-FN**

Amend the bill by replacing all after the enacting clause with the following:

1 Intent. The intent of this act is to require the department of transportation to contract with licensed real estate professionals to sell excess property owned by the department. The proceeds from the sale of the properties will be deposited into either the highway fund or the turnpike fund, depending on which fund was used to obtain the property.

2 Use of Real Estate Professionals in the Disposal of Highway and Turnpike Funded Real Estate. Amend RSA 228:31-b, I-III by replacing them with the following:

I. For purposes of this section:

(a) "Professional real estate services" means those professional services of licensed real estate professionals, as well as incidental services that members of the profession and those in their employ may logically and justifiably perform. ***These services shall include at a minimum a market analysis based on the highest and best use of all excess property being sold.***

(b) "Licensed real estate professional" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the real estate profession in this state under RSA 331-A.

II. The general court hereby declares that it shall be the policy of the department of transportation to negotiate contracts for professional real estate services on the basis of demonstrated competence and qualifications for the type of professional services required, and at fair and reasonable prices, to sell surplus ~~[commercial and industrial]~~ property obtained with funds derived from the highway fund or the turnpike fund.

III. The department shall publish a request for qualifications for professional real estate services to be procured. The department shall select licensed real estate professionals who have demonstrated competence and qualifications to market and sell highway and turnpike funded surplus ~~[commercial and industrial]~~ property.

3 Disposal of Highway and Turnpike Funded Real Estate. Amend RSA 228:31-b, VIII-X by replacing them with the following:

VIII. All requests for disposal of surplus ~~[commercial and industrial]~~ property owned by the department of transportation shall be reviewed and approved by the long range capital planning and utilization committee prior to submission to the governor and council for approval.

IX. The sale of surplus [~~commercial and industrial~~] property owned by the department which was purchased with highway or turnpike fund money shall be exempt from review by the council on resources and development under RSA 162-C.

X. All proceeds from sales of surplus [~~commercial and industrial~~] property owned by the department shall be deposited in the fund from which they originated.

4 Effective Date. This act shall take effect 60 days after its passage.

**2003-1780s**

### AMENDED ANALYSIS

This bill requires the department of transportation to use licensed real estate professionals in the sale of certain real estate.

This bill requires the department of transportation to deposit the proceeds from such sale in the fund originally used to obtain the property.

SENATOR CLEGG: Thank you, Mr. President. I move House Bill 1223 ought to pass with amendment. The legislation allows the Department of Transportation to use real estate brokers for the purpose of selling property. There have been many instances where state owned properties have sold at a significantly lower price than what could have been obtained on the market. This bill will allow the use of local experts in real estate to determine a fair and competitive price. The amendment provides flexibility so every parcel does not have to be brokered by a real estate agent, but does require that, at a minimum, a market analysis be done based on the highest and best use of the property being sold. The Finance Committee asks your support for the motion of ought to pass with amendment. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

SENATOR GATSAS (In the Chair): Without objection, we will move HB 1426 to the end of the day, without objection.

**HB 1241-FN-L**, extending the kindergarten construction aid program. Education Committee. Ought to pass, Vote 2-0. Senator Johnson for the committee.

SENATOR JOHNSON: Thank you, Mr. President. I don't have a speech prepared here on my desk. However, this bill extends the Kindergarten Construction Aid Program through June 30, 2008 and I would yield to the...oh, I have it right here. Thank you. There are fifteen towns in the United States without public kindergarten, and those fifteen towns are all in the state of New Hampshire. Research has shown that children who attend pre-school or kindergarten are more likely to finish high school, perform better on achievement tests, have higher IQ scores, have less disciplinary problems, have a decreased number of retentions in grades, have fewer placements in special education classes, and have fewer arrests, and are more likely to be employed and supporting themselves by their own earnings. This important bill will enable many of the cities and towns who have not established a public kindergarten to do so. And as a long time member of the InterLakes school board and having had kindergarten for quite some time, I can attest to many of these things, certainly positive, and so please join the Senate Education Committee and vote this bill ought to pass. Thank you, Mr. President.

SENATOR BARNES: Thank you, Mr. President. As a matter of fact, I've got two or three if I could indulge in the Senator and ask him. Number one, you said there were fifteen schools?

SENATOR JOHNSON: That's what the blurb says, Senator.

SENATOR BARNES: Okay, we won't get into that. Second question, Senator Johnson. During the testimony on this, how many of those fifteen school districts year after year have the towns turned kindergarten down?

SENATOR JOHNSON: It's been a long time. There's been a number of years that that's happened.

SENATOR BARNES: The last one's a would you believe. When this came **TAPE CHANGE** The town of Raymond passed it. While we were going through that, I was chairman of the Finance Committee at the time when this hell happened. I made calls to all of, would you believe, to all of the towns that didn't have it, and as a matter of fact I sent letters out. I wish I had saved them because three towns, and I think one of them was in the southern part of the state that's almost a city, to keep your damn money. We don't want your kindergarten money. So I think there are several school districts, and I think somebody from the Education Committee perhaps should contact those fifteen towns and see if they really want us to keep this thing alive year after year, and let the citizens make their own decision, because I personally, have a little bit of a problem. This has been going on for years, and I believe kindergarten is very important. That's why I stood here and pushed to extend it another two years. But I think there's a number of those towns, people over the time, have said, "No, we don't want kindergarten. No, we don't want your money." And I think it would behoove the Education Committee or some of these Senators in this room...

SENATOR GATSAS (In the Chair): Is that a question Senator?

SENATOR BARNES: It's a would you believe.

SENATOR GATSAS (In the Chair): Okay.

SENATOR BARNES: should contact these schools and find out what they want to do.

SENATOR JOHNSON: Senator Barnes, that was a good question.

SENATOR BARNES: Thank you, Senator Johnson.

SENATOR JOHNSON: I would just like to remind you that there are...is a city, at least one that I know of, and towns, who do have private kindergarten, and they take pride in what they have. So they make that decision to continue the way they are continuing. But I still think that we should leave that option open for the public schools.

SENATOR BARNES: Thank you, Senator Johnson. That was a great answer to my question.

SENATOR BOYCE: Thank you. I rise as I always do when this bill comes back every two or three years. Most of the towns and cities in this state, voluntarily, decided to do kindergarten years ago. I believe every town in my district and the city in my district, decided, at the local taxpayers' expense, to build kindergarten space, to equip it, and put it into use as a kindergarten. They probably got some reimbursement under the regular school construction program that the state has, but it was a local decision to do it. It's a local decision to continue it, and they all did it. Now there are some towns that it was decided some ten years ago,

almost ten years ago, that we should try and convince these few towns that didn't have public kindergarten to put in public kindergarten. As we just mentioned, some of the places that didn't have at that time, public kindergarten had kindergarten paid for by public. Fine line of distinction. They had private providers who were willing and able to provide kindergarten for the students that needed it. Some towns were willing to continue that, but because we put this big carrot out there in front of them and said, "We'll pay 80 percent or 90, I think we got up to 95 percent at one point, of the cost of constructing a new classroom to include kindergarten." It was just too tempting, and so they did away with their contractual agreement with local private kindergarten providers and instead put in public kindergarten. I think there was only one reason for that. There's a group of people who seem to benefit from there being more public teachers. You can all guess who that is. That's who pushed this. It's been extended, and extended, and extended, because some towns keep saying no. The taxpayers in those towns go to their town meetings, or they go to their city council, and they say no. We don't want this. They keep saying no, but we keep dangling this millions of dollars. This one is actually a little different than some of the past ones because, in the past, we simply extended the deadline for them applying for the money we had already appropriated. This one appropriates a new \$1.4 million dollars for this program that has not yet enticed these last few towns to do public kindergarten. We've passed a bill out to the House that allows for some choice for some parents on where they send their kids to school. I see this as a choice for these towns to decide where they're going to send their kids to school. The taxpayers in those towns have decided over and over and over again, not to do public kindergarten. I think this bill should be voted ITL rather than ought to pass. Thank you very much.

SENATOR BARNES: Mr. President. This is an easy one, Senator Boyce. It's a would you believe Raymond missed the gravy train. We didn't get 95 percent. We got only 70 percent.

SENATOR BOYCE: I believe that.

SENATOR ESTABROOK: Thank you, Mr. President. First of all, I'd have to rise and thank Senator Johnson for all his wonderful comments about the importance of early learning. And, in response to the issue of who benefits from public kindergarten, I think it's pretty clear that everyone benefits from having public kindergarten, most especially the students and their families, but all of us as communities benefit from public kindergarten. And, as far as why we should pass this bill and why we should continue to have this as Senator Johnson said as an "option for our districts", are two reasons. One, there's no reason not to. What difference does it make if the law is there and the funding is available if nobody's using it? And second of all, it doesn't mean that no one will use it down the road. The committee heard testimony about changing demographics and districts, that caused them to make different decisions over time as facilities become full or empty depending on how communities are growing. There are circumstances that would cause a district to decide to go with public kindergarten where prior they hadn't. So I think that it makes good sense, as Senator Johnson said, to continue to offer this as an option. Nothing that we're doing will prevent a district from continuing to support their private kindergartens, if that's what they choose to do. Thank you, Mr. President.

SENATOR BARNES: Thank you, Mr. President. Senator Estabrook, you're 100 percent right. Kindergarten is a great thing and I'm a firm believer in it. But, would you believe that I'm going to vote against this piece of legislation for a very simple reason? I think it might wake up some of the towns out there that are dilly-dallying, and maybe this will push them to wake up to the fact that they need it and they should go for it, and that next year, perhaps, we can bring legislation in to help those towns that change their minds and move it ahead. This might be a wake up call if we vote no, to hurry them along on the right path.

SENATOR ESTABROOK: I believe that, that's the rationale you will pursue. I, of course, have a different rationale. I think there are other ways to make them move.

SENATOR BARNES: Thank you, Senator.

SENATOR ESTABROOK: Thank you.

SENATOR LETOURNEAU: Thank you, Mr. President. I couldn't help but rise after I heard several comments about dilly-dallying and what-not. I happen to live in one of those towns that hasn't been able to come up with a kindergarten plan yet. Several of the towns in my district have had to go through tremendous bonding, \$27 million in Windham, I believe, almost up to \$30 million in Derry, to build new schools because of the expansion, because of the growth in our areas. One of the reasons why the taxpayers have decided not to go with kindergarten is because they're struggling with just building new schools to keep up with the population. So we are not dilly-dallying. Sorry, Senator Barnes, we are just strapped. And it is just one of those things where the towns have to wait until they pay off some of this bonding before they can accept some more. Thank you very much, Mr. President.

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

**HB 1249-FN-A-L**, relative to state reimbursement for school breakfasts and making an appropriation therefor. Education Committee. Ought to pass, Vote 2-0. Senator Eaton for the committee.

SENATOR EATON: Thank you. House Bill 1249 appropriates \$100,000 to the Department of Education for the purpose of reimbursing school districts three cents for each USDA breakfast served. Currently, three hundred and thirty-two of the four hundred and fifty-two schools in New Hampshire participate in the National School Breakfast Program. Research has suggested that children who eat a nutritious breakfast are more ready to learn, have better attendance and demonstrate better behavior in school. Please join our committee in voting ought to pass.

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

Senator Boyce is in opposition to the motion of ought to pass on HB 1249-FN-A-L.

**HB 1578**, to provide enhanced awareness of and education on methamphetamine to the citizens of New Hampshire. Education Committee. Inexpedient to legislate, Vote 2-0. Senator Bragdon for the committee.

### **MOTION TO TABLE**

Senator Bragdon moved to have HB 1578 laid on the table.

**Adopted.**



**LAID ON THE TABLE**

**HB 1578**, to provide enhanced awareness of and education on methamphetamine to the citizens of New Hampshire.

**HB 1593-FN-L**, relative to the construction of high school athletic fields in the town of Bedford. Education Committee. Ought to pass, Vote 3-0. Senator Bragdon for the committee.

SENATOR BRAGDON: Thank you, Mr. President. HB 1593 allows school building aid to be used to improve municipally owned buildings or lands that could be transformed into athletic fields or other school district purposes. Legislation requires that the cost of the project must be cost-effective for the town. The Department of Education testified at the hearing that the issue becomes a problem from time to time. They feel that, in the long run, this bill will result in a net savings. I will point out that this was especially the case in Bedford this year. There was a piece of town owned land whose restrictions in the deed prevented it from being transferred to the school district, but it made sense to be part of the overall plan. Please join the Senate Education Committee and vote this bill ought to pass. Thank you.

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

**HB 1673-FN**, relative to the reduction of mercury emissions. Energy and Economic Development Committee. Ought to pass, Vote 4-1. Senator Odell for the committee.

SENATOR ODELL: Thank you, Mr. President. I move House Bill 1673 ought to pass. This bill provides for an 80 percent reduction of mercury emissions from coal-burning power plants by July 1, 2013 by requiring installation of scrubber technology. It also provides economic incentives for earlier installation and greater reductions in emissions. House Bill 1673 is the result of many long hours of study and work by involved parties, including members of both the Senate and the House, and has the support of the Governor. Although the committee heard testimony from groups requesting an earlier date and a higher percentage of reduction, this is the right step to take to reduce health and environmental risks in the state. The bill is a positive attempt to minimize mercury with minimal impact on rates. And I congratulate and thank all those who worked on this and Senate President, for you, for starting the process last year with your amendment. And I think that this is a consensus building process that will help protect the health of the people of New Hampshire. I ask that you join with me and the other members of the Energy and Economic Development Committee in voting ought to pass on House Bill 1633 [sic]. Thank you, Mr. President.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I rise in support of the ought to pass. I want to commend chairman Larry Ross of Science and Technology in the House, who was the convener of all of the parties this summer. Yourself, Senator Hassan, Senator Odell and a number of our other Senators, Senator Burling. I think they did a good job at looking at this situation and coming up with a solution that makes sense. It makes sense from the public safety standpoint, it makes sense from the economic standpoint, it makes sense for us going forward. We understand the problems with mercury, and we've got to abatement them, we know that. This gives us a timetable. That timetable can be speeded up at any time that makes good sense. It retains the generating capac-

ity that we need. And it just proves that, again, when people get together and express their opinions and get these views out on the table, we can come up with reasonable solutions to very complex problems. Thank you, Mr. President.

SENATOR BARNES: Thank you, Mr. President. Senator D'Allesandro, did I just hear you say that that 2013 date that I have a real problem with could be speeded up? I thought I just heard you say that.

SENATOR D'ALLESANDRO: Thank you for the question, Senator Barnes. I think you can speed anything up, Senator Barnes. If the technology comes along that's available and is brought forward, people can make that move to speed up the process. Absolutely.

SENATOR BARNES: Thank you. Follow up. Didn't this Senate pass a bill last year or the year before that got stalled over in the House that we thought was a pretty good bill? The Senate took a good position on? I think Senator Gatsas was a prime mover of that piece of legislation because he sat on the committee that heard that bill. Is this the outshoot of what the Senate position was, and it's been changed a little bit since the Senate...?

SENATOR D'ALLESANDRO: Senator Barnes, again, many thanks for that kind question. It seems to me that the spirit of compromise is what legislation is all about, and no one has perfection down to the point where it is absolutely an axiom regardless of the situation. So, in the spirit of compromise, working with all of the placeholders, we come to decisions. Now they may be imperfection, as far as you're concerned, but generally speaking, they're accepted and that's how we move forward.

SENATOR BARNES: One more follow up. Based on what I've heard and read, everyone, all the holders, Senator D'Allesandro, are not in favor of this compromise. There are some conservation groups that are dead set against that 2013 and there are some that are very much in favor of it. So you're talking about a compromise, and not everyone and all the holders, agreed with that compromise that you're so happy with. Thank you very much.

SENATOR D'ALLESANDRO: Again, many thanks for your kind question, Senator Barnes. Christ had twelve apostles. Only eleven of them supported him. We didn't have unanimity. And in every situation, there are dissenters. Thank you, Mr. President.

SENATOR GATSAS (In the Chair): On a special day today, Senator. Greek Easter. Today's only Thursday.

SENATOR HASSAN: Thank you, Mr. President. I rise in support of the bill as well as in support of the committee's recommendation. And I want to address, really, the issue that Senator Barnes and Senator D'Allesandro were just discussing, which is the date. One of the things that happened as the parties came to the table, and as Chairman Ross convened this working group over the summer, was that Public Service of New Hampshire began hearing a lot of information about new and alternative technologies that would allow them to reduce mercury earlier than the 2013 date before the scrubbers were put on, and before total reductions were achieved by the 2013 date. And both, during the negotiations, in public press conferences, in their testimony before the Energy and Economic Development Committee, and in other forms as well, Public Service of New Hampshire has committed to attempting to use this new alternative technology to achieve much earlier mercury reductions than the 2013 date

provides. I indicated in committee, and I indicate here that I have relied on Public Service of New Hampshire's commitment to do that. They have assured me that they have. They have applied for, and received, a grant from the Department of Energy, the federal department, to start work on that right away. And I am confident that we will see early progress on mercury reductions, and I think Public Service of New Hampshire knows that, if we don't, we may be back at the negotiating table in the near future. Thank you.

SENATOR BRAGDON: Thank you, Mr. President. I rise in support of 1673. Senator Barnes pointed out that there may be one or two conservation minded groups that have expressed displeasure with this bill, but I'll remind the Senate that the following groups are in support of this bill and helped to craft it. The Audubon Society, the Loon Preservation Commission, the Society for the Protection of New Hampshire Forests, Trout Unlimited, the Bass Federation, the Department of Environmental Services. This is a compromise crafted by a number of people over a large period of time, and we should reward them. Thank you.

SENATOR JOHNSON: Thank you, Mr. President. I will try to be brief. I just want to say that I concur with my fellow Senators who are in favor of this piece of legislation. Yes, it was a Senate Bill. It started in the Senate, and I was a prime sponsor, and I believe you were a co-sponsor, and we did attempt to move up the date. It went over to the House, and certainly there have been other people who have worked long and hard on this piece of legislation, and I think, to answer or partially answer Senator Barnes' question, it says that it would be installed no later than January 1, 2013. So it is open-ended, and I'm sure that they will work very hard to perhaps move that date up. So with that, there were, I believe, three conservation groups that I saw, that were not happy with the latest timeframe. But there again, I think as we know, majority rules, and I think they all came together, the ones that are in support of this, and I think they did an excellent job. And I certainly hope that we can vote in favor of House Bill 1673 as amended. Thank you.

SENATOR BURLING: Thank you, Mr. President. Very briefly. I, too, rise in support of the motion before us. I just want to say that there are three prime motivations that bind me to the passage of this bill. First and foremost, I believe we do have an obligation when citizens and lawmakers come together and do a superb piece of work that results in an extraordinary compromise. We have some obligation to support them in that. And I believe by passing this vote, I am giving them that support. I took the time in the public hearing before our committee to inquire of Public Service of New Hampshire, whether they would publicly and on the record, reconfirm the promises which they had previously made to Senator Hassan. And I asked them to do that. They did that willingly and clearly. There is no equivocation in my view about their response. And finally, I'd like to remind us of what we're doing. We are talking about instituting a compromise which will begin to extract from the air we breathe one of the most deadly toxins known to man. And, lest we forget what we're dealing with here, it's a hundred and twenty-five pounds per year that this compromise will allow us to take out of the air that surrounds us. One hundred and twenty-five pounds per year. Let's get started. Thank you.

SENATOR MARTEL: Thank you very much, Mr. President. I rise in strong support on this piece of legislation, that we finally turned the corner, as far as I'm concerned, in really attacking the deadly toxins that build up

in smoke stacks, on heating plants, even our own wood stoves show that mercury is also at that point in time, building up by creosote and everything else. So I strongly urge my fellow Senators to please pass this bill and I strongly support that adoption. Thank you very much, Mr. President.

**The question is on the adoption of the committee report of ought to pass.**

**A roll call was requested by Senator Green.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: Boyce, Barnes.**

**Yeas: 22 - Nays: 2**

**Adopted.**

**Ordered to third reading.**

**Senator Barnes is in opposition to HB 1673-FN.**

**HB 1690**, relative to renewable energy. Energy and Economic Development Committee. Ought to pass with amendment, Vote 4-1. Senator Bragdon for the committee.

**Energy and Economic Development**

**April 12, 2006**

**2006-1763s**

**03/04**

### **Amendment to HB 1690**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to renewable energy and relative to divestiture of PSNH generation assets.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Divestiture of PSNH Generation Assets. Amend RSA 369-B:3-a to read as follows:

369-B:3-a Divestiture of PSNH Generation Assets. The sale of PSNH fossil and hydro generation assets shall not take place before ~~[April 30, 2006]~~ **June 30, 2008**. Notwithstanding RSA 374:30, subsequent to ~~[April 30, 2006]~~ **June 30, 2008**, PSNH may divest its generation assets if the commission finds that it is in the economic interest of retail customers of PSNH to do so, and provides for the cost recovery of such divestiture. Prior to any divestiture of its generation assets, PSNH may modify or retire such generation assets if the commission finds that it is in the public interest ~~[of retail customers of PSNH]~~ to do so, and provides for ~~[the]~~ cost recovery of such modification or retirement. ***PSNH may build or acquire additional generating assets that employ renewable wood-fired energy proximate to the northern forests of the state if the commission finds it is in the public interest to do so, and provides for the cost recovery of such additional generating assets. The addition of generating assets that employ renewable energy shall be deemed in the public interest, provided that there is a reasonable plan for the construction and operation of such***

***a facility, that all prudent measures will be taken to control costs, and due consideration is given to the sharing of risks between shareholders and customers.***

**2006-1763s**

### AMENDED ANALYSIS

This bill:

I. Authorizes electric utilities to offer a renewable energy default service option.

II. Authorizes the use of energy efficiency system benefits charge funds for renewable energy programs.

III. Extends the prohibition on PSNH divestiture of generation assets.

SENATOR BRAGDON: Thank you, Mr. President. I move House Bill 1690 ought to pass with amendment. The bill authorizes electric utilities to offer a renewable energy default service option and authorizes the use of energy efficiency system benefits charge funds for renewable energy programs. The amendment extends the prohibition of PSNH divestiture of generation assets to June 30, 2008 and enables PSNH to build or acquire generating assets to employ renewable wood-fired energy in Senator Gallus' North Country. The bill, with amendment, will boost the economy of the North Country after the closing of the two paper mills and allow for major economic development in the state by creating jobs. It will also help to diversify energy resources by increasing renewable energy. Please join the Energy and Economic Development Committee in voting ought to pass with amendment. Thank you.

SENATOR BOYCE: Yes. I am trying to find something in this calendar I can vote yes on. But, I voted no in committee on this, and my reason is that I believe that this will just be one more opportunity for the ratepayers to pay more money for something they would not, on their own, opt to do. Now there is the opportunity for someone, an unregulated utility, an unregulated provider of electricity, to build a facility in that North Country and use that wood if it's economically feasible for them to do that. But that's up to the investors in that utility to take on the risk. If they take the risk and build a facility and it goes bust, they lose the money. If PSNH builds the facility and it goes bust, the people that put the money up, they don't lose anything. They are guaranteed a rate of return on their investment. They are guaranteed that they will make a profit on their investment. I have nothing against PSNH. I have a problem with putting this on the backs of the ratepayers. And it says in the bill that the public utilities will look to the shared risk between the shareholders and the ratepayers. The shareholders will have no risk. We saw that in the debacle we had over the wood-fired energy plants that, some ten or so years ago, we forced PSNH to buy power from them at inflated prices in order to try and make these wood-fired plants economically feasible. Well, we now have a situation where the ratepayers today are paying off those plants as stranded costs on their bill. If burning wood is economically feasible to produce electricity in today's economic climate and environmental climate, then it will happen. Somebody will say, "Here's my \$200 million. Let's build a plant up there in Berlin and burn up the sawdust, burn up the woodchips." It will happen. But if it is not economically feasible, and PSNH does it anyway, the ratepayers will pay, as they are paying today, for mistakes made in the past. Requiring PSNH to buy power from these wood-powered utilities was the same situation

when it was passed long ago. It was to provide a renewal source of energy because we were going to run out of oil. That was the fear. We were going to run out of oil. We needed to have these wood-fired plants and get them up and get them running so that they could take over when we ran out of oil and coal, and whatever else we wanted to use to fire the utilities. Well, we now know that didn't happen, and not only didn't it happen, but the cost of the fuel for those never got to the point where the wood was a better alternative. Now we do have PSNH building one or converting one plant over in Newington or Portsmouth, to burn wood. But that's still at the ratepayers' risk. It's not PSNH's risk. They're not going to lose any money if that plant goes bust. Every dollar they invest in that is guaranteed to come back to them with a profit and it comes from the ratepayers. The Public Utilities Commission is required to give a regulated utility a rate of return on their investment. They are required to guarantee them that every dollar they invest in one of their plants that is a regulated utility, will come back to the pocket of the shareholder, the pocket of the investor, the pocket of the person that, as in the case of Seabrook, bought junk bonds just before the bankruptcy. All of those people are guaranteed they're going to get their money back. It's also guaranteed it's going to come out of the ratepayers' pocket. I am against this. If it is economically viable and feasible to build a power plant in Berlin, to burn woodchips. Fine. Let somebody do it. But don't put it on the backs of the ratepayers; put it on the backs of the investors that think it's a great idea. Thank you.

#### **Amendment adopted.**

Senator Burling offered a floor amendment.

Sen. Odell, Dist. 8

Sen. Burling, Dist. 5

**April 20, 2006**

**2006-1931s**

**03/09**

#### **Floor Amendment to HB 1690**

Amend the bill by replacing all after section 2 with the following:

3 New Section; Wood-Fired Generation Assets. Amend RSA 369-B by inserting after section 3-a the following new section:

369-B:3-b Wood-Fired Generation Assets. PSNH may build or acquire additional generating assets that employ renewable wood-fired energy proximate to the northern forests of the state if the commission finds it is in the public interest to do so, and provides for the cost recovery of such additional generating assets. The addition of generating assets that employ renewable wood-fired energy shall be deemed in the public interest, provided that there is a sound balance between the interests of PSNH's retail customers and the interests of the area and the state, that there is a reasonable plan for the construction and operation of such a facility, that all prudent measures will be taken to control costs, that there is an appropriate sharing of risks between shareholders and customers, and that any recovery of costs will be through default service rates. The commission shall take all reasonable steps to expedite any proceeding under this section.

4 Effective Date.

I. Section 3 of this act shall take effect 90 days after its passage.

II. The remainder of this act shall take effect 60 days after its passage.

**2006-1931s****AMENDED ANALYSIS**

This bill:

I. Authorizes electric utilities to offer a renewable energy default service option.

II. Authorizes the use of energy efficiency system benefits charge funds for renewable energy programs.

III. Establishes standards for building or acquiring wood-fired generation assets by PSNH and authorizes recovery of costs through default service rates.

SENATOR BURLING: Thank you.

SENATOR GATSAS (In the Chair): Amendment 1931.

SENATOR BURLING: 1931, and if I may speak to it while it's being handed out, Mr. President?

SENATOR GATSAS (In the Chair): You may.

SENATOR BURLING: I want to thank my colleague from District 4 for laying the ground work for basically my introduction of this floor amendment. We have, in committee, worked very hard over the last ten days, to figure out a way using language to describe a situation in which we remove, as much as humanly possible, all the bars to anyone taking up to Coos County the benefits of an economic development idea that may serve as a replacement for the mills that are closing down. At the start of this, we had the benefit of Public Service of New Hampshire telling us they were willing to go look at this project. But there is a bar in our law that prohibits them from doing that. We tried, and tried, and tried again, and I think, in this floor amendment, have succeeded in crafting language which removes the bar for Public Service of New Hampshire, without preferring them, and without barring anybody else who may desire to take their best idea and put it on the table, and get started on an initiative for Berlin, for Coos County, for the people of New Hampshire. And I would like to just take you through the checks and balances in this floor amendment. First and foremost, if any of you have seen earlier iterations of this floor amendment, you will notice that the language relative to divestiture of PSNH's generating assets, essentially, the existing language that includes the date of April 30, 2006, that entire language has been removed from this floor amendment, and if this floor amendment passes, will be removed from 1690. That is an issue about divestiture which is an issue raised in the original deregulation proposal of several years ago. It does not belong in this bill, and we felt, after much discussion amongst ourselves and with the Governor's Office, that it did not belong in the text of what we do right now. If we pass this floor amendment and the bill passes, the Public Utilities Commission will have several tests that it must apply to determine whether or not PSNH or someone else goes forward. First and foremost of course, will be the determination of public interest, and this floor amendment, in remarkably clear language, I think, sets out the test that must be met. There must be a sound balance between the interests of Public Service of New Hampshire's retail customers, and the interest of the area and the state. There must be a reasonable plan for the construction and operation of a facility. There must be prudent measures to control the costs. And there must be an appropriate sharing of risks between shareholders and customers. And let me stop for a second just to say this is one area where

I disagree completely with my colleague on my right. I think he assumes that everybody is just going to dump the risk of a proposed PSNH proposal onto the ratepayers. I don't assume that at all. And I don't see anything in this process which suggests that that's an appropriate assumption. Finally, it is clear that the recovery of costs, if recovery of costs there be, will be through the default service rates, not through stranded costs service rates. The commissioner...the commission is going to take reasonable steps to expedite the proceedings under this section so we can keep headway on to getting this done. I should say that I asked that the effective date be extended out to ninety days. I wanted that extension because yesterday I learned that a constituent company from Hanover was one of a large and growing group of people who want a chance to get their best idea on the table for Berlin, and these ninety days will give them that chance. Passage of floor amendment 1931 will say to PSNH, "We take away the bars that prohibit you from acting", but it will also say to any other person, any other group, any other business, "We really would like to have your best ideas brought forward right now. Bring it on. Let's see it. And if it's the best in the public interest, we'll go with you." So thank you, Mr. President. That is my summary of 1931s and I ask you to join me and the committee majority in passing it.

**Recess.**

**Out of recess.**

Senator Burling moved to withdraw the floor amendment.

**Adopted.**

### **MOTION OF RECONSIDERATION**

Senator Odell, having voted with the prevailing side, moved reconsideration of **HB 1690**, relative to renewable energy, whereby the committee amendment was adopted.

**Adopted.**

**HB 1690**, relative to renewable energy.

The question is on the adoption of the committee amendment (#1763).

**Amendment failed.**

Senator Odell moved ought to pass.

Senator Burling offered a floor amendment (#1931).

SENATOR BURLING: Is it okay if I just say what I said a few minutes ago?

SENATOR GATSAS (In the Chair): Sure.

SENATOR BURLING: I ask my colleagues to join us in the passage of 1931.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

SENATOR LARSEN: I simply rise to applaud the work of Senator Burling and Odell, in their work on this, the wordsmithing of it because it does in fact, as we've now amended it, talk about the need for a sound balance. It talks about a reasonable plan for construction. It talks about prudent measures to control costs. It talks about appropriate sharing of risks and the recovery of costs through default service rates. So what you've accomplished is to address all of our concerns, and in fact, move forward what we believe, is a very good idea, which is to work on the



further development of jobs in the North Country and to do that in a way that is appropriate. So I think you've found some great wordsmithing here that accomplishes what many of our concerns were. Thank you.

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

Senator Gatsas is in opposition to the amendment on HB 1690.

**HB 1265**, establishing the council on the relationship between public health and the environment. Environment and Wildlife Committee. Ought to pass with amendment, Vote 5-0. Senator Johnson for the committee.

**Environment and Wildlife**

**April 12, 2006**

**2006-1771s**

**01/04**

### **Amendment to HB 1265**

Amend the title of the bill by replacing it with the following:

AN ACT extending the final report date of the commission to study the relationship between public health and the environment.

Amend the bill by replacing all after the enacting clause with the following:

1 Extending the Reporting Date for the Commission to Study the Relationship Between Public Health and the Environment. Amend 2000, 114:6, as amended by 2001, 23:2; 2003, 196:1; and 2004, 20:9 to read as follows:

114:6 Report. The commission shall make an interim report on its findings and any recommendations for proposed legislation on or before November 1, 2000 and a final report on or before November 1, ~~2005~~ **2007** to the speaker of the house of representatives, the senate president, the house clerk, the senate clerk, the governor, and the state library.

2 Effective Date. This act shall take effect upon its passage.

**2006-1771s**

### **AMENDED ANALYSIS**

This bill extends the final report date of the commission to study the relationship between public health and the environment, established in 2000, 114, from November 1, 2005 to November 1, 2007.

SENATOR JOHNSON: Thank you, Mr. President. I move House Bill 1265 ought to pass with amendment. The original version of this legislation would have made the Commission on the Relationship Between Public Health and the Environment permanent. While the Commission provides a great opportunity for different organizations and agencies to meet and work together, the committee was not comfortable making it permanent. The committee amendment will reauthorize the Commission for a two-year period as the Commission still has many ongoing topics to study. The Environment and Wildlife Committee asks for your support on the motion of ought to pass with the amendment. Thank you, Mr. President.

SENATOR HASSAN: Thank you, Mr. President. And I rise in gentle dissent with my committee. Two of us voted against the committee amendment, but did vote ultimately for the bill as amended. And the testimony...I wanted first to thank Senator Martel, Senator Fuller Clark and Senator

Foster for being co-sponsors of this bill. This is a situation in which members of a study committee came forward to the Senate and said that they had been doing such good work, this is a committee that has been looking at the interplay of the environment and public health, that they wanted to become a six-year council. There was significant testimony that they have had great improvements in state agencies working together towards the issue of how the environmental issues we face affect public health. DES came in and testified about how effective this group had been. And nobody opposed the bill. In addition to wanting to extend into a six-year council, which is what the bill calls the permanent body, and it's only a body for six-years, the original bill also proposed changing the membership in the body just a little bit. For instance, to include folks from the Jordan Institute, which is a private entity that's been looking at the interplay of environmental issues and public health. Given that, it seemed to me that when we had overwhelming testimony about the effectiveness of this committee, their coming to us saying "We have a lot of work to do, we've made great improvements. We've got state agencies working together and talking together." While I certainly understand and appreciate my fellow committee members' concerns about having too many councils or commissions or extending something for six-years, in this case, it just seems to me that we should follow the lead of the committee members who came to us, and the state agency folks who came to us, and said, "Please let us continue our work for six years, we're really learning a lot, we're really doing well." So if you feel you can, I would ask you to vote down the committee amendment and pass the original bill. If you have reservations about making it permanent and feel you really can't vote for a six-year council, then please do vote for the amendment because I think passing this with the amendment is better than not passing it at all. Thank you.

SENATOR EATON: Thank you. Senator Hassan, thank you. She passed on the information very accurately. I would suggest that we vote for this bill with amendment. I think the Commission has done a very, very good job. They've talked about the collaboration they have done, but I think six years is too long to wait before we get a report back. I think, if they come back in two years from now, just as a sunset, show us what they've done, and we'll take another look at it at that time.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1315**, relative to the definition and classification of dams. Environment and Wildlife Committee. Ought to pass with amendment, Vote 4-0. Senator Gallus for the committee.

**Sen. Gallus, Dist. 1**

**April 5, 2006**

**2006-1652s**

**06/01**

### **Amendment to HB 1315**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to the definition and classification of dams and relative to the acceptance of Jericho Lake Dam in Berlin.

Amend the bill by inserting after section 6 the following and renumbering the original section 7 to read as 8:

7 New Paragraph; Dam Acquisition Authorized; Jericho Lake Dam. Amend RSA 482:48 by inserting after paragraph V the following new paragraph:

VI. For a consideration of \$1, the department of resources and economic development, division of parks and recreation, is authorized to accept the Jericho Lake Dam in the city of Berlin.

**2006-1652s**

#### AMENDED ANALYSIS

This bill changes the names for classification of dams from letters to names based on the hazard potential of the dam. It also exempts certain storm water detention dams from the definition of "dam."

This bill authorizes the department of resources and economic development to accept the Jericho Lake Dam in Berlin.

SENATOR GALLUS: Thank you very much, Mr. President. I move House Bill 1315 ought to pass with amendment, basically housekeeping legislation that will clarify the dam classification system. Currently, the hazard classification of dams is A, B or C. House Bill 1315 will eliminate these alphabetic designations and replace them with Low, Significant or High Hazard potential. The legislation also exempts small storm water detention ponds from New Hampshire's Dam Safety Program as these structures are already regulated by DES under site specific programs. The committee amendment, at the request of DRED, will transfer the Jericho Lake Dam to the state, so that a gift of land transfer with the city of Berlin and the state can move forward. The Environment and Wildlife Committee asks for your support on the motion of ought to pass with amendment, and we thank you, Mr. President.

SENATOR BOYCE: A question of Senator Gallus.

SENATOR GALLUS: Yes.

SENATOR BOYCE: I'm curious about the condition of the Jericho Lake Dam. Is it in excellent, pristine condition, is it in need of some repairs, or in need of a lot of repairs?

SENATOR GALLUS: According to the comment that was made at committee by Representative of the Dam Bureau from DES, there are some minor repairs needed, some brush work and a few other things. His comment was minor repairs.

SENATOR BOYCE: Follow up? I'm just concerned. If there was a...I know if there was a road that the state owned in a town and the state said, "We don't want to take care of this road anymore, we want to give it to the town", the town would very rightly say, "No, we want it to be in pristine, up-to-date, up-to-standards condition, with no repairs needed before we'll accept it." I'm concerned that we're accepting something that's going to give us more responsibility for repairs and maintenance and, if is not in absolutely top shape, I think we should not accept it until it is in that condition.

SENATOR GALLUS: We have to look at basically, Senator, the entire package of what's happening here. I would love for the city of Berlin to be giving me this three hundred acres and Jericho Lake. Okay? And then I would take possession of the dam. You know, it's a real jewel in the North Country. It's an addition to the 7,200 acre ATV Park that will go

with that state facility in that particular location. You're talking at, even in Berlin, New Hampshire, a transfer of land around a pristine body of water that, you know, for all purposes has a, you know, a multi-million dollar value on it, to the state of New Hampshire. And, of course, the city is saying "We're gifting you this land". So naturally, they want the state, with that particular gift, to assume responsibility for any responsibility that might be with that dam. I think it's a very small cost.

SENATOR BOYCE: One further follow up. **TAPE CHANGE**

SENATOR GALLUS: **TAPE CHANGE** because of the economic condition of the city, they have not had...we've had money to spend on schools, but no money to spend on parks. And so basically, the park itself has been in some minor disrepair as far as maintaining of the beach area and the changing houses and stuff like that over the years. We just have a **TAPE CHANGE** a major addition to that park when you add a beautiful body of water.

SENATOR BOYCE: Thank you.

SENATOR GALLUS: Thank you.

SENATOR BARNES: Thank you, Mr. President. During the hearing, if I'm correct, I sit on the committee, the very question that Senator Boyce brought up about the condition of the dam, his concern for that, was discussed and the state people that were there, my recollection of it is, they said it wasn't a problem. So they didn't tell us how much money would be needed, but the comment was the answer to the question, it was not a problem or words to that affect. I see Senator Eaton, who sits right beside me, must have heard the same conversation. Thank you, Senator Eaton.

SENATOR EATON: Thank you. And I didn't realize Senator Barnes was going to get up and speak, but that was our major concern and question, and it is not a major problem. They have staff that would be cleaning it out, and it leaks no more than any other dam he said that they have. It is not a problem dam, but the monies will be more than offset with the attraction to the ATV parks that they're going to build up there.

SENATOR KENNEY: And sometimes we have knowledge and experience that get us in trouble here. I...questions on classifications. I see there is no menace, low hazard potential, significant hazard potential and high hazard potential. When we had the Alton dam break situation, and dam break in my community, Bella Lake Dam, there as an attempt by the House Resource Committee, along with the Water Resource Board, to look at the classification system then and associate it with the emergency evacuation plans that were, I believe, at class B and below. Will this somehow speak to that issue, as to what classification, new classification will have to have emergency evacuation plans associated with that new system?

SENATOR GATSAS (In the Chair): Question of Senator Gallus?

SENATOR KENNEY: Senator Gallus.

SENATOR GALLUS: Thank you. I would suspect they would follow the designations, A, C, high, low. I am not positive of that, but I would assume they're going to do that.

SENATOR KENNEY: I have a follow up. I see that the act shall take effect after sixty days and so I would suspect that administrative rules associated with dams will have to be update with this new language of new classification language?

SENATOR GALLUS: I would suspect so.

SENATOR KENNEY: Okay. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

**HB 1446**, requiring the department of resources and economic development to prepare and submit a management and financial plan to the general court and the public prior to the opening of the Berlin regional ATV park. Environment and Wildlife Committee. Inexpedient to legislate, Vote 3-2. Senator Gallus for the committee.

SENATOR GALLUS: Yes, Mr. President.

SENATOR GATSAS (In the Chair): Is this the last bill on Berlin?

SENATOR GALLUS: I hope so. Let's see. Okay. I move House Bill 1446 inexpedient to legislate. This legislation would have required the Commissioner of the Department of Resources and Economic Development to prepare and present a management and financial plan to the General Court and public concerning the ATV park in Berlin. The committee felt this legislation attempted to micromanage the Department and retroactively tried to address things that have already been done. A lot of the planning for the park has already been completed and this legislation would hinder the opening of the park this year. No other state park is micromanaged the way the ATV park would be under this legislation. The Environmental and Wildlife Committee asks for your support on the motion of inexpedient to legislate. We thank you.

**Recess.**

**Out of recess.**

### **MOTION TO TABLE**

Senator Barnes moved to have HB 1446 laid on the table.

**Adopted.**

### **LAI D ON THE TABLE**

**HB 1446**, requiring the department of resources and economic development to prepare and submit a management and financial plan to the general court and the public prior to the opening of the Berlin regional ATV park.

### **PARLIAMENTARY INQUIRY**

SENATOR BURLING: Parliamentary inquiry of the President?

SENATOR GATSAS (In the Chair): Parliamentary inquiry.

SENATOR BURLING: Mr. President, there is a rumor floating about that a bill soon to come up is to be tabled, and it's a bill about which I have intense personal feelings, which I would like to put on the record. And I know in this, I am joined by a couple of other Senators. Would you instruct me about how the proper way to express those feelings might be recognized when it is appropriate to offer them, and how I might get on the record to say what an important bill I think it is?

SENATOR GATSAS (In the Chair): That's a good question. Is that a question on this bill or is that a question on a forward bill on the rumor? 'Cause we know how rumors are.

SENATOR BURLING: One that's just about to come up. I don't want to dampen anybody's spirit, but that might give a hint as to where I...to keep everybody afloat.

SENATOR GATSAS (In the Chair): You may speak to it, Senator Burling, when it comes.

SENATOR BURLING: Thank you. My concern, Mr. President, is that of course, as a member of the minority, I am in the delicate situation where I'm looking at a potential tabling motion and...

SENATOR GATSAS (In the Chair): If that bill is with a motion of laid on the table, it's non-debatable and there is no discussion.

SENATOR BURLING: Can I take a Rule #44 before that?

SENATOR GATSAS (In the Chair): You can take a Rule #44 after that, 'cause we're not sure if somebody's going to make a motion to table.

SENATOR BURLING: Thank you very much.

**HB 1506**, requiring children 12 years of age or under to wear personal floatation devices. Environment and Wildlife Committee. Ought to pass, Vote 3-2. Senator Johnson for the committee.

SENATOR JOHNSON: Thank you, Mr. President. I move House Bill 1506 ought to pass. This legislation will require children age twelve and under to wear a personal floatation device on a boat. New Hampshire requires children age eighteen and under to wear snowmobile and motorcycle helmets and children under age sixteen must wear a bike helmet, yet current statute only requires a child five and under to wear a personal floatation device. New Hampshire has one of the least restrictive personal floatation device laws in the country. This legislation is consistent with the recommendation of the National Transportation Safety Board that children under age thirteen wear personal floatation devices on boats. The Environment and Wildlife Committee asks for your support on the motion of ought to pass. Thank you, Mr. President.

SENATOR BURLING: Thank you, Mr. President. Mr. President.

SENATOR GATSAS (In the Chair): Is this a Rule #44?

SENATOR BURLING: This is not a Rule #44. I am speaking to the bill. Thank you, Mr. President. The bird that was on my shoulder must have been misinformed. I am standing to speak on this bill because I suspect I'm one of the few people in this hall who has actually drowned. I was four years old. I remember the experience in Cornish as though it were yesterday, and I suspect I will for as long as I'm alive. My brother and I were walking by a body of water. I was four. I went into the water. I think I had a little rubber whale, those inflatable toys. And I can remember slipping below the surface. And the sense of puzzle at how odd the light was as it turned from sort of white to green to blue. And I remember feeling the sort of mud and then I passed out. There are lots of people, I'm sure, in the political environment who would say, "Oh shucks, he came back".

SENATOR GATSAS (In the Chair): You said this isn't a Rule #44.

SENATOR BURLING: No, this isn't a Rule #44. I came back because there was an angelic man named Alfred Leclair who probably ran the 440 faster that day that anybody has ever run it since, and I recovered

in the Windsor Hospital because Al Leclair got me there. And four-year-olds, I guess, can come back from deeper dives. But this bill is about making sure that all the children, and all the young people who have this same kind of experience and don't come back, will be protected by a simple, reasonable rule. And there is such, such an imperative on this day that we began with beautiful children before us. How could we not recognize their place in our society by passing this bill? That's enough. I just don't want any other child in New Hampshire to experience the memory that I now have. And I'm glad to be here to share it with you.

SENATOR HASSAN: Thank you, Mr. President. I rise in support of the committee recommendation of ought to pass. We heard compelling testimony from a number of people about the fact that drowning is the second most frequent reason for children's death in the country, motor vehicle accidents being the first. We heard from Marine Patrol that they favor this bill. We also heard from the head of Marine Patrol, as well as other experts, that the reason the age twelve is an important age here, is the developmentally, it is at the age of about twelve that children develop the ability to do more than one thing in a time of crisis. So, after the age of twelve, the ability that a child could react to an accident, fall overboard, catch a life preserver, put it on themselves, is much greater than at twelve or younger. Mostly though, I rise to honor two extraordinary women who came to speak to us. They are mothers of children who drowned. And permit me...forgive me my emotion for a moment. It is very difficult to come to a legislative committee of strangers and talk about highly, highly personal issues. It is particularly difficult to come as mothers of children who drowned, wishing like anything you could have done something to prevent it. These two women Kathy Matz Helie and Leslie Nixon could not have prevented their sons' death to drowning, but they began to do research about the frequency with which children drown in this country and because they know what it's like to lose a child to drowning, they have dedicated themselves to making sure that as few mothers and fathers as possible ever have to go through what they are going through. And even though these women could not have prevented their sons' death, other parents might be able to, by the simple rule...simple law requiring that, until their children are twelve, they wear a floatation device while in a boat. I will also note that I am the cousin of a woman who watched...we'll didn't watch her fiancé drown, lost her fiancé in a boat accident on the ocean. He fell overboard and by the time...and he's was a superb swimmer, by the time they turned the boat around, he was gone. It happens. It happens every day. It is a problem we can easily prevent, and I ask your support for this bill. And I thank these two wonderful mothers for coming to our committee, talking about such a difficult topic, and educating us all. Thank you.

### **MOTION TO TABLE**

**Senator Bragdon moved to have HB 1506 laid on the table.**

**The question is on the motion to lay on the table.**

**A roll call was requested by Senator Foster.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Kenney, Boyce, Green, Flanders, Roberge, Eaton, Bragdon, Clegg, Gatsas, Martel, Letourneau, Morse.**

**The following Senators voted No: Johnson, Burling, Odell, Gottesman, Foster, Larsen, Barnes, D'Allesandro, Estabrook, Hassan, Fuller Clark.**

**Yeas: 13 - Nays: 11**

**Adopted.**

### **LAI D ON THE TABLE**

**HB 1506**, requiring children 12 years of age or under to wear personal flotation devices.

**HB 1630-L**, relative to land use change taxes imposed for certain road construction on rights-of-way. Environment and Wildlife Committee. Ought to pass, Vote 4-0. Senator Hassan for the committee.

SENATOR HASSAN: Thank you, Mr. President. We are on 1630. Is that correct? Thank you. I move House Bill 1630 ought to pass. This legislation will put the responsibility of the land use change tax involving a right-of-way onto the party responsible for causing the change. Currently, the party who causes the need to pull some of the property into a right-of-way is not responsible for paying the tax. The Environment and Wildlife Committee asks for your support on the motion of ought to pass. Thank you.

**Adopted.**

**Ordered to third reading.**

**Recess.**

**Out of recess.**

**HB 1337**, establishing the amusement ride safety advisory board. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 4-0. Senator Fuller Clark for the committee.

### **Senate Executive Departments and Administration**

**April 12, 2006**

**2006-1804s**

**05/10**

### **Amendment to HB 1337**

Amend RSA 321-A:10, I and II as inserted by section 1 of the bill by replacing it with the following:

I. There is established the amusement ride safety advisory board, comprised of the following members:

(a) The commissioner or designee, who shall serve as the chair of the board.

(b) One representative of owners or operators of carnival or amusement rides which are portable in nature, appointed by the governor with the advice and consent of the council.

(c) Two representatives of owners or operators of permanently placed carnival or amusement rides, one of whom shall be a water park operator, appointed by the governor with the advice and consent of the council.

(d) An insurance professional with experience underwriting carnival or amusement rides, appointed by the governor with the advice and consent of the council.

(e) An electrical engineer with experience in the mechanisms of amusements, appointed by the governor with the advice and consent of the council.



(f) A member of the general public, appointed by the governor.

II. The first members of the board shall serve staggered terms, appointed as follows: members appointed under subparagraphs I(b) and (d) shall be appointed for one-year terms, members appointed under subparagraph I(c) shall be appointed for 2-year terms, members appointed under subparagraphs I(e) and (f) shall be appointed for 3-year terms. Thereafter, appointed members shall serve 4-year terms, and until their successors are appointed. Any vacancy on the board shall be filled for the remainder of the unexpired term.

SENATOR FULLER CLARK: Thank you, Mr. President. I move House Bill 1337 ought to pass with amendment. House Bill 1337 puts in place a non-confrontational process that will allow the amusement industry and the Department of Safety to sit down together and address safety issues on an ongoing basis. The committee amended the bill by replacing the representative from the New Hampshire Fair Managers with a second representative of the owners and operators of carnival or amusement rides. The committee recommends ought to pass with amendment on House Bill 1337, and thank you, Mr. President.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

**HB 1595-FN**, relative to certification of electronic systems technicians by the electricians' board. Executive Departments and Administration Committee. Interim Study, Vote 5-0. Senator Flanders for the committee.

SENATOR FLANDERS: Thank you, Mr. President. I move interim study House Bill 1595, which seeks to establish a certification process for low voltage electric technicians. As written, the legislation is very broad. Further discussion among the various parties is needed to work out the details, and we recommend interim study on House Bill 1595. Thank you.

SENATOR LARSEN: I would move to substitute the motion of inexpedient to legislate and would like to speak to that.

SENATOR GATSAS (In the Chair): First we must vote down the interim study, and then we can take your motion.

**Motion failed.**

SENATOR LARSEN: Thank you, Mr. President. In the committee hearing and through multiple contacts both by letter and email, I think many of us heard the concern that low voltage installers of electrical systems had, that the way House Bill 1595 was drafted was so broad, that it would in fact limit what is the majority of low voltage installers in our state who are working to install alarm systems or other kinds of low voltage lighting and electrical systems. Because there's such concern by the majority who are making a living from this business, they had asked us to consider making this bill inexpedient to legislate.

SENATOR GATSAS (In the Chair): Senator, did you make a motion of inexpedient to legislate? You first need a motion on the floor.

SENATOR LARSEN: I'm sorry. I would move that the bill be made inexpedient to legislate.

Senator Larsen moved inexpedient to legislate.

SENATOR LARSEN: Yes, I'd like to continue to speak to that motion. There are a lot of people who make their living from this and they're concerned that if we interim study it, it might survive in the language...written as it is. I believe that there is still the opportunity for next session for those who are installing high-end home electronics to find a way to certify those who are in that field, but I don't believe we want to have a whole summer and fall's worth of alarm installers and others contacting us about this issue. So I think there's still the opportunity for a good bill to be written so that it allows for those in their own profession to continue doing the work they do, and it allows for those in the home theater business or whatever, their inclinations are to bring back a bill next session. So I would move inexpedient to legislate.

SENATOR LETOURNEAU: A brief discussion. I received a lot of mail on this particular issue and all from local businesses in New Hampshire, and they all seem to be opposed to this. And, as a person who spent forty years in electronics, I can tell you that this isn't done by people who don't know what they're doing. You've really got to know what you're doing in order to do this job to begin with. And I thank the Senator for rising for the inexpedient motion and I support that. Thank you.

**Adopted.**

**HB 1595-FN is inexpedient to legislate.**

**HB 1735-FN**, relative to awarding the state employees' health insurance plan. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 5-0. Senator Flanders for the committee.

**Senate Executive Departments and Administration**

**April 12, 2006**

**2006-1799s**

**08/09**

### **Amendment to HB 1735-FN**

Amend the bill by replacing section 1 with the following:

1 Administration. Amend RSA 21-I:27 to read as follows:

21-I:27 Administration. Administration of the state employees permanent group life and *state employees and retirees* group hospitalization, hospital medical care, surgical care and other medical and surgical insurance benefits shall be the responsibility of the commissioner of administrative services. *If the commissioner of administrative services concludes that inclusion of the university system of New Hampshire in the health plan would best serve the interests of the state employees and the state of New Hampshire, then the commissioner shall, with the consent of the university system board of trustees, administer the health benefits of the university system of New Hampshire employees as set forth in this subdivision.*

SENATOR FLANDERS: 1735? Thank you, Mr. President. I move ought to pass with amendment on House Bill 1735. This bill allows for the inclusion of the University System of New Hampshire and the administration of state employees health insurance plan and creates a legislative committee to make recommendations and advise the Commissioner of Administrative Services on the state employee group insurance plan. Basically what we've said here is we are going to allow the Administrative Services to look at the University System to see if this can help in lowering the cost of insurance and by including them. We amended it to say that the University System would have to agree to be part of that insurance system. The bill also repeals the law requiring self-insured

health plan for the state employees. Basically, we don't give the option to the Commissioner, which may be the least expensive, it would be self-insurance or company insurance. And this leaves it open that he can look at to see which is the best buy. The committee adopted an amendment clarifying the University's consent is required before being included in the state employees health insurance program. And the committee recommends ought to pass with amendment. This came out of a study last summer. We looked at all of the different areas that we could do to help with the insurance, the health insurance of the state, and this is a recommendation from the committee. I urge you ought to pass. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

**HCR 20**, a resolution commending the New Hampshire committee for Employer Support of the Guard and Reserve. Executive Departments and Administration Committee. Ought to pass, Vote 3-0. Senator Barnes for the committee.

**SENATOR BARNES:** Thank you, Mr. President. I move ought to pass on House Concurrent Resolution 20. The resolution honors the committee that makes it possible for New Hampshire Guard and Reservists to serve this state and nation without fear of reprisal by their employers if they're away from their jobs for an extended period of time. The Committee for Employer Support of the Guard and Reserve, which serves as an ombudsman if the need arises, to protect both employee and employer, has always recognized those generous employers who many times, not only make it easy for their employees to participate in the Guard or Reserve, but also make up lost pay or don't count military days against vacation. The services provided by the committee are invaluable, and the Senate ED & A Committee asks you for an ought to pass vote.

**SENATOR MARTEL:** Thank you very much, Mr. President. I stand up in strong support of this bill, okay, House Concurrent Resolution 20 because we here in the state of New Hampshire have always, we've always likened our fellow patriots to go out and fight wars for us in the military, like I have a son right now, who's serving in Fort Hood Texas in preparation of going to Iraq sometime in the next two months. He sees many individuals, okay, who do serve, come from the National Guard who serve there as well as in the Reserves. And they've melded together a very strong organization of regular Army as well as, you know, the Reservists in the National Guardsmen, all together, like you've never...like the military has never seen before. I just, out of due respect for all of those soldiers who work hard, who were there, getting paid a lot less than they usually do, I have had many phone calls from constituents from help, and we've tried to help them as best we can with General Clark. And I ask of you to consider this very carefully, and I ask that we pass this bill, because it is a very good bill for all those who serve our country in our defense. And I thank you, Mr. President.

**The question is on the committee report of ought to pass.**

**A roll call was requested by Senator Barnes.**

**Seconded by Senator Larsen.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: None.**

**Yeas: 24 - Nays: 0**

**Adopted.**

**Ordered to third reading.**

**HB 1182-FN**, relative to the limited commercial lobster license fees. Finance Committee. Ought to pass, Vote 5-0. Senator D'Allesandro for the committee.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I move House Bill 1182 ought to pass. This legislation will restructure the commercial lobster license in New Hampshire. New lobster licenses will be limited to a hundred traps and cost \$103. The cost of a limited permit for six hundred traps will be raised to \$175. The full commercial license for twelve hundred traps remains the same at a cost of \$300. House Bill 1182 will help to protect existing New Hampshire lobstermen by preventing people from establishing residency in New Hampshire and immediately beginning to fish six hundred traps. The new fees and language are universally agreed to by the lobstermen. The Finance Committee asks for your support for the motion ought to pass.

**Adopted.**

**Ordered to third reading.**

**HB 1410-FN-L**, relative to the cost to counties of convicted inmates awaiting sentencing in a county correctional facility. Finance Committee. Ought to pass with amendment, Vote 6-0. Senator D'Allesandro for the committee.

**Sen. Clegg, Dist. 14**

**April 5, 2006**

**2006-1644s**

**04/05**

### **Amendment to HB 1410-FN-LOCAL**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to the addition of a disciplinary period to a minimum sentence and relative to the application of good time credits for prisoners transferred to the state prison.

Amend the bill by replacing all after the enacting clause with the following:

1 Sentences and Limitations. Amend RSA 651:2, II-e to read as follows:

II-e. To the minimum sentence of every person who is sentenced to imprisonment for a maximum of more than one year shall be added a disciplinary period equal to 150 days for each year of the minimum term of the sentence, to be prorated for any part of the year. ***The minimum sentence to which the disciplinary period is added pursuant to this section shall include all periods of confinement prior to the imposition of sentence for which credit against the sentence is awarded pursuant to RSA 651-A:23.*** The presiding justice shall certify, at the time of sentencing, the minimum term of the sentence and the additional disciplinary period required under this paragraph. This

additional disciplinary period may be reduced for good conduct as provided in RSA 651-A:22. ~~[There shall be no addition to the sentence under this section for the period of pre-trial confinement for which credit against the sentence is awarded pursuant to RSA 651-A:23.]~~

2 New Paragraph; Parole of Prisoners; Credits for Good Conduct. Amend RSA 651-A:22 by inserting after paragraph V the following new paragraph:

VI. Upon sentencing to the state prison of any person who was held at a county correctional facility while awaiting trial or sentencing for the offense on which sentence was imposed, the county correctional facility shall forward to the commissioner a copy of such prisoner's disciplinary record while confined in the county correctional facility. Within 30 days of the prisoner's arrival at the state prison, the commissioner shall review the prisoner's conduct record while incarcerated at the county correctional facility using the same standards and procedures specified in paragraphs I, II, and IV of this section. If, as a result of such review, the commissioner determines that the prisoner exhibited good conduct while incarcerated at the county correctional facility, the commissioner may reduce the additional disciplinary period applicable to such period of county confinement in accordance with paragraph III of this section.

3 Effective Date. This act shall take effect 60 days after its passage.

**2006-1644s**

### AMENDED ANALYSIS

This bill specifies the procedures for applying a disciplinary period to a minimum sentence and for the application of good time credits for prisoners incarcerated in a county correctional facility who are transferred to the state prison.

SENATOR D'ALLESANDRO: Thank you very much. I am the miniature version of Senator Clegg. I'm working on it. I'm working on it. I'm going to grow and be big and strong like Senator Clegg. Thank you, Mr. President. I move House Bill 1410 ought to pass with amendment. During the period where an inmate is being held at a county correction facility awaiting trial or sentencing, inmates can often be very aggressive since they are prison bound and are aware of it. This bill addresses that. This legislation provides an incentive for inmates to be on good behavior while awaiting trial or sentencing by allowing good time credits to be applied once he or she is transferred to the state prison. After having met with the courts, this is the wording that they recommended. The Finance Committee asks your support of the motion of ought to pass with amendment. Thank you, Mr. President.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

SENATOR BURLING: I just rise once again. This is an old song of mine. This bill started out as a way of addressing the cost to counties of incarcerating people and once again, we've ducked it. And instead of actually helping the counties with the cost of incarcerating people, we've set up a new situation in which people who have been convicted, that is to say they're already in the jurisdiction of the state because they are guilty of a crime, are now in a county institution, and we're not helping out with the payments. Thank you, Mr. President.

**Adopted.**

**Ordered to third reading.**

**HB 1489**, relative to school emergency response plans. Finance Committee. Inexpedient to legislate, Vote 7-0. Senator Morse for the committee.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 1489 inexpedient to legislate. This bill requires public and nonpublic schools to develop and implement a site-specific emergency response plan based on and conforms to, the Incident Command System of the National Incident Management System. Did you write this? The fiscal note indicates that there may be an increase of local expenditures of \$189,600 in '07 and '08. This bill, however, does not appropriate new funds. The Department of Education says that some school districts already have a plan. However, the committee had concerns that there could be a local expenditure without funds being appropriated. The Finance Committee asks for your support of inexpedient to legislate.

**Committee report of inexpedient to legislate is adopted.**

**HB 1613-FN-L**, relative to polling place arrangement and accessibility. Finance Committee. Ought to pass with amendment, Vote 7-0. Senator Morse for the committee.

**Senate Finance**  
**April 12, 2006**  
**2006-1797s**  
**03/01**

#### **Amendment to HB 1613-FN**

Amend the title of the bill by replacing it with the following:

AN ACT relative to polling place arrangement and accessibility and establishing the position of state filings officer.

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 5:

4 New Section; Organization of Executive Branch; Code of Ethics; State Filings Officer Established. Amend RSA 21-G by inserting after section 35 the following new section:

21-G:36 Filings Officer; Duties and Responsibilities. There is established within the department of state a designated position of state filings officer who shall communicate when necessary with candidates for public office, public officials, public employees, and lobbyists on the submission of forms pursuant to RSA 21-G:28, RSA 15, RSA 15-A, and RSA 15-B.

**2006-1797s**

#### **AMENDED ANALYSIS**

This bill:

I. Modifies the requirements for accessible voting booths.

II. Authorizes table-top voting screens.

III. Establishes minimum requirements for numbers of voting booths and screens at polling places.

IV. Modifies requirements for accessibility to the polling place.

V. Establishes within the department of state the position of state filings officer.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 1613 ought to pass with amendment. This legislation will insure that polling places use the New Hampshire State Building Code for handicapped accessibility and are in compliance with the American Disabilities Act.

House Bill 1613 will change the physical measurements of ramps, hand-rails, booths, etc., in polling places. Most polling places go to great lengths to accommodate everyone and these new requirements will reduce hardships and confusion. The amendment to the bill was a request of the Secretary of State's Office. This does not appropriate new funds, so we were told, nor does it establish a new position, so we were told, within their Department. It simply allows the Department to designate someone as a state filing officer. Currently, there is no mechanism in place to inform elected officials that a required filing has not been submitted. This person will not fill enforcement duties but will serve to provide friendly reminders and act as a liaison. The Finance Committee asks for your support of the motion of ought to pass with amendment.

### **Amendment adopted.**

Senator Morse offered a floor amendment.

Sen. Morse, Dist. 22

**April 20, 2006**

**2006-1938s**

**03/01**

### **Floor Amendment to HB 1613-FN-LOCAL**

Amend the title of the bill by replacing it with the following:

AN ACT relative to polling place arrangement and accessibility and authorizing the designation of a state filings officer.

Amend the bill by replacing all after section 3 with the following:

4 New Section; Department of State; State Filings Officer Authorized. Amend RSA 5 by inserting after section 3 the following new section:

5:3-a Filings Officer; Duties and Responsibilities. The secretary of state shall designate a person employed within the department of state as the state filings officer who shall communicate when necessary with candidates for public office, public officials, public employees, and lobbyists on the submission of forms pursuant to RSA 21-G:28, RSA 15, RSA 15-A, and RSA 15-B.

5 Effective Date.

I. Sections 1 and 2 of this act shall take effect September 1, 2006.

II. The remainder of this act shall take effect upon its passage.

**2006-1938s**

### **AMENDED ANALYSIS**

This bill:

I. Modifies the requirements for accessible voting booths.

II. Authorizes table-top voting screens.

III. Establishes minimum requirements for numbers of voting booths and screens at polling places.

IV. Modifies requirements for accessibility to the polling place.

V. Authorizes within the department of state the designation of an employee as the state filings officer.

SENATOR MORSE: Thank you, Mr. President. I would like to offer an amendment that basically clarifies...it's amendment 1938s.

SENATOR GATSAS (In the Chair): Floor amendment 1938 has been proposed. You may speak to it.

SENATOR MORSE: I'd like to speak to it.

SENATOR GATSAS (In the Chair): Go ahead.

SENATOR MORSE: Mr. President, this amendment will clarify that we have not added a new position or any new money, like we were told in committee.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**CACR 30**, relating to limits on the taking of private property. Providing that a person's property shall not be taken by eminent domain if the taking is for private use. Finance Committee. Ought to pass, Vote 6-0. Senator Green for the committee.

SENATOR GREEN: Thank you, Mr. President. I move that CACR 30 ought to pass. This legislation will go to the citizens of this state on this November's ballot, using simple and direct language that everyone can understand. This CACR precludes the use of eminent domain to take property for the sole purpose of turning it over for private development or private use. Although legislation has passed addressing this issue that is very important, this CACR is needed to prevent judicial determination of eminent domain in the event a statute is interpreted as being inconsistent with constitutional language. The language in this CACR is identical to language we passed in this Senate on a roll call vote, which was CACR 44. I ask you to please support the committee's recommendation of ought to pass, ensuring what happens in Kelo vs. the City of New London, Connecticut does not happen here in New Hampshire. Thank you for your support.

**The question is on the motion of ought to pass.**

**A roll call was requested by Senator Green.**

**Seconded by Senator Flanders.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: None.**

**Yeas: 24 - Nays: 0**

**Adopted by the necessary 3/5 vote.**

**Ordered to third reading.**

**HB 688-FN**, relative to the regulation of mental health practitioners and the procedures of the board of mental health. Health and Human Services Committee. Ought to pass, Vote 2-0. Senator Estabrook for the committee.

SENATOR ESTABROOK: Thank you, Mr. President. HB 688 adds one public member to the Board of Mental Health to allow more sunshine from the public on Board of investigations and proceedings. The rest of the bill adds more direct specific language to clarify legislative intent and to make



more information on the status of complaint investigations available to the public. These are valuable improvements to the public disclosure requirements of current law, and the committee, unanimously, 2-0, recommends ought to pass.

**Adopted.**

**Ordered to third reading.**

**HB 1611-FN**, relative to reimbursement for personal care services. Health and Human Services Committee. Ought to pass, Vote 3-0. Senator Bragdon for the committee.

SENATOR BRAGDON: Thank you, Mr. President. I move ought to pass on House Bill 1611. The legislation addresses a technical issue of who can be reimbursed for services to a developmentally disabled child. The current restrictions on reimbursing family members, guardians and people with powers of attorney, is in law because, in some cases, parents would seek reimbursement for services they would normally do for free. HB 1611 will create a limited exemption to the law on the books now. Under 1611, the Department of Health and Human Services will review requests for reimbursement on a case-by-case basis. Cases will be based on the needs of the children, availability of services and the amount requested. The committee recommends ought to pass on HB 1611. Thank you.

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

**HB 1672-FN**, relative to a registry for substantiated cases of abuse, neglect, or exploitation of incapacitated adults and establishing a task force relative to central registries. Health and Human Services Committee. Ought to pass with amendment, Vote 4-0. Senator Estabrook for the committee.

**Health and Human Services**

**April 12, 2006**

**2006-1795s**

**01/04**

### **Amendment to HB 1672-FN**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to a registry for founded cases of abuse, neglect, or exploitation of incapacitated adults, relative to certain background checks, and establishing a task force relative to central registries.

Amend the bill by replacing all after the enacting clause with the following:

1 Elderly and Adult Services; Immunity From Liability. Amend RSA 161-F:47 to read as follows:

161-F:47 Immunity From Liability. Any person or agency, other than an alleged perpetrator, participating in good faith in the making of a report of an alleged incident of adult abuse, neglect or exploitation, providing information relative to such incident or following a reporting protocol developed jointly with the department, *or who in good faith investigates the report, administers the registry, or who participates in a judicial or administrative proceeding resulting from that report*, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any person or agency providing information in good faith, including materials requested by the de-

partment pursuant to RSA 161-F:56, shall have the same immunity with respect to participation in any investigation by the commissioner or his authorized representative or in any judicial proceeding resulting from such report.

2 Registry for Founded Cases of Abuse, Neglect, or Exploitation of Incapacitated Adults. RSA 161-F:49 is repealed and reenacted to read as follows:

161-F:49 Registry.

I. There shall be established a state registry of abuse, neglect, and exploitation reports at the department for the purpose of maintaining a record of information on each case of alleged abuse, neglect, or exploitation toward an individual by a paid or volunteer caregiver or a caregiver hired or obtained by an agency, individual, family, or guardian. Unfounded cases shall not be maintained on the registry. The department shall maintain statistical, non-identifying information on founded cases as the department determines is necessary to track and address trends. This section shall apply in each case of abuse, neglect, or exploitation by a paid caregiver toward an individual that is founded by an investigator. For the purposes of this section:

(a) "Individual" means an individual found eligible for or receiving services pursuant to RSA 171-A, RSA 135-C:13, RSA 135-C:14, RSA 161-E, RSA 161-I, or programs licensed under RSA 151:2, I(b), (e), or (f), or who is an incapacitated adult, as defined under RSA 161-F:43, VII.

(b) The investigators shall be designated or employed by the department, in accordance with a protocol developed by the department to ensure objectivity, thoroughness, timeliness, and uniformity in methodology and format in the conduct of investigations and investigation reports. The investigators may include investigators employed by area agencies or community mental health centers, if designated by the department.

II. Within 5 business days of completion of an investigation report by an investigator of alleged abuse, neglect, or exploitation by a caregiver of an individual, the investigator shall provide the investigation report to the commissioner, or designee. Except as provided in paragraph IV, for a founded report, the commissioner, or designee, shall, within 5 business days, notify the perpetrator:

(a) Of the founded case against him or her and that such information shall be entered on the registry and the consequences of such a finding.

(b) Of the right to contest the finding by appealing within 10 business days.

(c) Of the right to receive a full and fair administrative hearing, including the right to be represented by counsel at his or her own expense.

(d) Of the right to appeal an adverse administrative hearing decision to the probate court in accordance with paragraph IV.

(e) That he or she may petition the probate court to expunge his or her name from the registry pursuant to RSA 161-F:49, VIII.

III. Except as provided in paragraph IV, for a founded report, the commissioner, or designee, shall notify the employer:

(a) Relative to a prospective employee who is not on the registry of that fact within 5 days of receipt of a request from the employer.

(b) Relative to a prospective employee who is on the registry of that fact within 5 business days of receipt of the request from the employer, and the employer shall include in the notice the date the person was placed on the registry.

IV. A founded case of abuse, neglect, or exploitation, and other information the commissioner deems appropriate, shall be entered on the registry upon:

(a) Expiration of the 10-day period for appeal when the perpetrator does not request an appeal.

(b) An administrative hearing officer sustaining the finding, unless an appeal is filed in accordance with paragraph V and an order of stay is issued by the probate court.

V. If the finding is sustained after an administrative hearing, a person shall have the right to appeal as follows:

(a) A person may file a petition in the Merrimack county probate court to review the final order by the commissioner, or designee, within 30 days of the date of the final order. Jurisdiction to hear such appeals is vested in the Merrimack county probate court.

(b) At the earliest practical time, the court shall review the record as developed before the commissioner, or designee, together with any written legal argument presented to the court. Based on that review, the court may affirm or reverse the decision of the commissioner, or designee, or order that oral argument be held. As justice may require, the court may remand the case to the commissioner, or designee, for further findings or rulings. The petition for appeal shall set forth all the grounds upon which the final order is sought to be overturned. Issues not raised by the appellant before the commissioner, or designee, shall not be raised before the probate court. The burden of proof shall be upon the appellant to show that the decision of the commissioner, or designee, was clearly unreasonable or unlawful, and all findings of the commissioner, or designee, upon all questions of fact properly before him or her shall be deemed to be prima facie lawful and reasonable. The order or decision appealed from shall not be vacated except for errors of law, unless the court is satisfied, by a clear preponderance of the evidence, that the order is unjust or unreasonable.

(c) No new or additional evidence shall be introduced in the probate court. The case shall be determined upon the record and evidence transferred, except that in any case, if it shall be necessary in order that no party shall be deprived of any constitutional right, or if the court determines that justice requires the reception of evidence of facts which have occurred since the hearing, or which by reason of accident, mistake, or misfortune could not have been offered before the commissioner, or designee, it shall remand the case to the commissioner, or designee, to receive and consider such additional evidence.

VI. If it is determined by the investigator or after a hearing requested pursuant to subparagraph II(c) that a founded case was caused by factors beyond the control of the perpetrator, then the finding shall not be entered onto the registry as founded.

VII. All employers of programs which are licensed, certified, or funded by the department to provide services to individuals shall be required before hiring a prospective employee who may have client contact to submit his or her name, for review against the registry of founded reports of abuse, neglect, and exploitation to determine whether the person is on the registry. The employer shall not hire the prospective employee if the person is listed on the registry with a founded case of abuse, neglect, or exploitation, unless the employer requests and obtains a waiver from the department to hire such person. The employer, upon receiving of notice that a prospective employee is on the registry and in order to determine whether he or she should request a waiver from the department, may

request permission from the prospective employee for the authority to obtain further information about a founded case of abuse, neglect, or exploitation. Any individual hiring a caregiver directly, or through an authorized representative or fiscal intermediary, to provide personal care services, as defined in RSA 161-E or RSA 161-I, may, with the consent of the prospective employee, submit the prospective employee's name for review against the registry and, if the prospective employee is on the registry, and with the further permission of the prospective employee, obtain information about any founded case. The individual shall not be required in such situations to obtain a waiver prior to hiring a person on the registry. It shall be unlawful for any employer other than those specified under this paragraph to require as a condition of employment that the employee submit his or her name for review against the registry of founded reports of abuse, neglect, or exploitation and any violation of this provision shall be punishable as a violation.

VIII. Founded reports of abuse, neglect, or exploitation shall be retained for a period of 7 years subject to an individual's right to petition for the earlier removal of his or her name from the registry as provided in this section.

IX. Any individual whose name is listed in the founded reports maintained on the central registry may petition the probate court to have his or her name expunged from the registry as follows:

(a) A petition to expunge shall be filed in the probate court where the petitioner resides or where the abuse, neglect, or exploitation occurred.

(b) A petition to expunge shall be filed on forms provided by the probate courts. The petition shall include certified copies of the petitioner's criminal record and may include any other information the petitioner deems relevant.

(c) When a petition to expunge is filed, the probate court shall require the department to report to the court concerning any additional founded abuse, neglect, or exploitation reports relative to the petitioner and shall require that the petitioner submit the petitioner's name, birth date, and address to the state police to obtain information about criminal convictions. The court may require the department to provide any additional information that the court believes may aid it in making a determination on the petition.

(d) Upon the receipt of the department's report, the court may act on the petition without further hearing or may schedule the matter for hearing at the request of either party. If the court determines that the petitioner does not pose a present threat to the safety of adults and has exhibited best efforts to eliminate the likelihood of reoccurrence of the type of behavior that resulted in his or her entry onto the registry, the court shall grant the petition and order the department to remove the individual's name from the registry. Otherwise, the petition shall be dismissed.

X. The department shall, in the notice it sends out pursuant to RSA 161-F:49, II(d), notify the perpetrator of his or her right to petition to have his or her name expunged from the registry. No petition to expunge shall be brought within one year from the date that the petitioner's name was initially entered on the registry. If the petition to expunge is denied, no further petition shall be brought more frequently than every 3 years thereafter.

XI. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to:

(a) Setting forth the process and criteria for requesting and granting a waiver pursuant to RSA 161-F:49, VII.

(b) Safeguarding the confidentiality of and access to the registry except for the functions necessary to comply with this section. Such safeguards shall include limitations on which persons in an employment situation may request and access the names of persons on the registry.

### 3 Task Force Established.

#### I. There is established a task force to study:

(a) The need for further improvements in the efficiency, effectiveness, and accessibility of the registries established pursuant to RSA 161-F:49 and RSA 169-C:35. The task force shall also study the provisions of 42 C.F.R. 488(c)-(e);

(b) The efficiency, effectiveness, and accessibility of the criminal records check process and the statutes relative to such checks for those providing care to vulnerable populations, served through the department, including, but not limited to, individuals eligible for or receiving services pursuant to RSA 171-A, RSA 135-C:13, RSA 135-C:14, or programs licensed under RSA 151:2, I(b), (e), or (f), or who is an incapacitated adult as defined in RSA 161-F:43, VII; and

(c) Whether the department shall make available certain information regarding a complaint about a permitted or licensed child day care agency, under RSA 170-E:17.

#### II. The task force may form such subcommittees as deemed appropriate.

### 4 Membership and Compensation.

#### I. The members of the task force shall be as follows:

(a) Two members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Two members of the senate, appointed by the president of the senate.

(c) The commissioner of the department of health and human services and a member appointed by the commissioner of the department of health and human services, or 2 designees.

(d) The long-term care ombudsman, department of health and human services.

(e) The commissioner of the department of education, or designee.

(f) The attorney general, or designee.

(g) A representative of the Disabilities Rights Center, appointed by the center.

(h) A representative of New Hampshire Legal Assistance, appointed by such office.

(i) A representative of the Community Support Network, Inc. of New Hampshire, appointed by the network.

(j) A representative of the New Hampshire Community Behavioral Health Association, appointed by the association.

(k) A representative of Granite State Independent Living Foundation, appointed by such foundation.

(l) A representative of the Child Care Advisory Council, appointed by such council.

(m) A representative of a licensed child day care agency, appointed by the commissioner of the department of health and human services.

(n) Two parents of children attending a licensed child day care agency, appointed by the commissioner of the department of health and human services.

#### II. The task force shall solicit information from any other person or entity the task force deems relevant to its study.

#### III. Legislative members of the task force shall receive mileage at the legislative rate when attending to the duties of the task force.

5 Duties. The task force shall study the need for further improvements in the efficiency, effectiveness, and accessibility of the registries established pursuant to RSA 161-F:49 and RSA 169-C:35 and shall include in its study an examination of 42 C.F.R. 488(c)-(e). The task force shall determine the need, desirability, and feasibility of merging or combining the registries into one registry or otherwise improving access to and between the registries so that all licensed, certified, and funded programs by the department of health and human services and the department of education or other local or state programs have greater access to founded perpetrator information in and across all systems serving children and incapacitated or vulnerable adults. The task force shall also study the confidentiality issues concerning complaints and investigations and the public availability of such information relative to licensed child day care agencies.

6 Chairperson; Quorum. The members of the task force shall elect a chairperson from among the members. The first meeting of the task force shall be called by the first-named house member. The first meeting of the task force shall be held within 45 days of the effective date of this section. Nine members of the task force shall constitute a quorum.

7 Report. The task force shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before December 1, 2006.

8 State Registry and Criminal Records Check; Revocation of Registration and Withholding of State Funds. RSA 170-E:7, I and II are repealed and reenacted to read as follows:

I. Child day care providers who are required to be licensed or registered according to the provisions of this chapter shall, no later than an individual's first day of employment, which individual is responsible for the care of, or having regular contact with children, and upon adding new household members or other individuals who will have regular contact with children, submit to the department, the names, birth names, birth dates, and addresses of such individuals and other information required by the department as prescribed by rules adopted by the commissioner under RSA 541-A. The persons described in this paragraph shall submit to the department a notarized criminal history records release form, as provided by the New Hampshire division of state police, which authorizes the release of the person's criminal records, if any. The person shall submit with the release form a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the department. In the event that the first set of fingerprints is invalid due to insufficient pattern, a second set of fingerprints shall be necessary to complete the criminal history records check. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the department may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where the person has lived during the past 5 years.

II.(a) The department shall, for every name submitted on an application, in the registration process, and for each individual for whom information is required to be submitted pursuant to paragraph I, review the names, birth names, birth dates, and current and previous addresses of such persons against the state registry of founded abuse and neglect reports.

(b) The department shall submit the criminal history records release form to the New Hampshire division of state police, which shall conduct a criminal history records check through its records and through

the Federal Bureau of Investigation. Upon completion of the background investigation, the division of state police shall release copies of the criminal conviction records to the department. The department shall maintain the confidentiality of all criminal history records information received pursuant to this paragraph.

(c) The costs of criminal history record checks shall be borne by the child day care provider; provided, that the child day care provider may require an applicant to pay the actual costs of the criminal history check of the employee.

9 Effective Date.

I. Sections 3-7 and 9 shall take effect upon its passage.

II. The remainder of this act shall take effect January 1, 2007.

**2006-1795s**

### AMENDED ANALYSIS

This bill:

I. Requires employers of programs licensed, certified, or funded by the department of health and human services to check the backgrounds of certain prospective employees against the registry for founded cases of abuse, neglect, or exploitation of incapacitated adults.

II. Clarifies the criminal records check procedures for child day care providers.

III Establishes a task force to study certain registries.

SENATOR ESTABROOK: Thank you, Mr. President. HB 1672 closes a critical gap in our safeguards to disabled and elderly adults who are supported by the vast network of Health and Human Services programs and facilities. It prevents harm before it happens. Currently, substantiated abusers are able to leave one human service employer, say a group home, and get a job with another. This bill amends current law. It's patterned after the child abuse registry and calls for a procedure whereby, if designated, Health and Human Service investigators have substantiated an allegation of abuse, neglect or exploitation against a person, that person's name is put on an HHS registry. When an adult or elderly service provider wants to hire some one to provide direct care, they must check the registry. If the employment candidate is on the registry, he or she cannot be hired unless a waiver is obtained. The bill includes a number of safeguards to protect the confidentiality of victim and alleged abuser. In addition to the waiver the employer may seek, the bill affords the alleged abuser the opportunity to challenge the finding or get it expunged. We should and must have zero tolerance for abuse, neglect and exploitation of vulnerable individuals, especially those we are providing supports to. While it is difficult, a difficult challenge to totally prevent abuse and neglect, when the state can do something about it, it should. Establishing essential registry system and thus preventing employment of abusers is something the state can and should do. The committee asks your support for the recommendation of ought to pass.

SENATOR HASSAN: Thank you, Mr. President. I also rise in support of the committee recommendation. One of the things my colleagues may not know is that there is a very small portion of cases of abuse and neglect of this population that are actually reported for criminal prosecution. So some people have asked me whether our criminal justice system can't take care of these cases and prevent people from working in this area again if they're convicted. And the fact is, a very tiny percentage gets reported, in part because this population that is being cared for

has a very hard either speaking or being compelling witnesses because of the range of their particular disabilities. I also rise in support of this because, as we all know, there are more and more people who have disabilities in our state. There are more and more families who are facing the task of finding out how they are going to care for family members with disabilities, particularly as parents of those family members age. One of the things we need to do is assure both the people with the disabilities or the elderly, as well as their families, that we are committed to providing an infrastructure that can help them do the very hard work they've been doing for a great portion of their lives, in caring well for people with disabilities. This is a very vulnerable population. This change is long overdue, and I hope to have the support of the full body. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

**HB 1709-FN**, establishing an autism registry in the department of health and human services. Health and Human Services Committee. Ought to pass, Vote 4-0. Senator Martel for the committee.

**SENATOR MARTEL:** Thank you very much, Mr. President. I move ought to pass on House Bill 1709. This bill establishes an autism registry in the Department of Health and Human Services. Under House Bill 1709, healthcare providers who are qualified to make a diagnosis of autism are required to report new cases to the Department. The registry will rely on grant funding and does not require any funding from the state. House Bill 1709 will help identify a baseline number of new cases to compare against future years which will be critical in assessing the situation here in New Hampshire. Mr. President, the committee recommends an ought to pass on this bill, and House Bill 1709, and I thank you. And may I speak to my...may I say a few words about this?

**SENATOR GATSAS (In the Chair):** Keep speaking.

**SENATOR MARTEL:** Mr. President, what this proves is that this may save the state money with regard to setting up this autism system. So that is another...that's another asset the state will have in identifying the registry as well as being able to save money as well, so I thank you, Mr. President.

**Adopted.**

**Ordered to third reading.**

**HB 1713-FN**, restricting the over-the-counter sale of pseudoephedrine base and ephedrine base drugs and establishing commission to study the feasibility of an electronic tracking system for sales of pseudoephedrine base and ephedrine base drugs. Health and Human Services Committee. Ought to pass, Vote 4-0. Senator Bragdon for the committee.

**SENATOR BRAGDON:** Thank you, Mr. President. Before I make a motion, I was told that an amendment was being prepared. I don't know if that's ready yet. I was told there was an amendment being prepared. I don't know if it's ready yet. It's here. I move ought to pass on HB 1713.

**Recess.**

**Out of recess.**



**MOTION TO TABLE**

Senator Clegg moved to have HB 1713-FN laid on the table.

**Adopted.**

**LAIID ON THE TABLE**

**HB 1713-FN**, restricting the over-the-counter sale of pseudeophedrine base and ephedrine base drugs and establishing commission to study the feasibility of an electronic tracking system for sales of pseudeophedrine base and ephedrine base drugs.

**HB 1727-FN-L**, relative to transfer or discharge of patients or residents in licensed facilities. Health and Human Services Committee. Ought to pass with amendment, Vote 4-0. Senator Bragdon for the committee.

**Health and Human Services**

**April 11, 2006**

**2006-1754s**

**01/09**

**Amendment to HB 1727-FN-LOCAL**

Amend RSA 151:26, V and VI as inserted by section 3 of the bill by replacing them with the following:

V. For the purposes of this section, "transfer" or "discharge" shall not include transfers or discharges initiated at the request of the patient or his or her legal guardian, except that transfer or discharge of a resident from a nursing home certified under federal law even if initiated at the request of the resident or his or her legal guardian shall be subject to all federal notice requirements.

VI. If the patient or his or her legal guardian wishes to have the patient relocate to another facility or place, the patient shall be relocated according to the patient's or legal guardian's wishes; provided, that the patient or legal guardian gives written notice of such relocation to the facility.

SENATOR BRAGDON: Thank you, Mr. President. I move ought to pass with amendment on House Bill 1727. The bill clarifies the roll of a long-term care ombudsman and changes the name of the federally designated agency to comply with the federal language. The bill also streamlines the process whereby a patient may request to leave a facility. HB 1727 will reduce the paperwork requirements of providers who at present are required to prepare a discharge notice for everyone, including individuals who wish to leave voluntarily. The committee adopted an amendment to clarify that the patient has the final decision-making authority, relative to their discharge and recommends ought to pass with amendment on HB 1727. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1741-FN**, relative to reporting requirements concerning infections in hospitals. Health and Human Services Committee. Ought to pass with amendment, Vote 4-0. Senator Fuller Clark for the committee.

**Health and Human Services****April 12, 2006****2006-1793s****01/09****Amendment to HB 1741-FN**

Amend RSA 151:32-34 as inserted by section 1 of the bill by inserting after RSA 151:34 the following new section:

151:35 Limitation. No hospitals shall provide, and the department shall not collect, any data that identifies an individual patient, including but not limited to name, street address, city or town, telephone number, and social security number.

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect July 1, 2007.

SENATOR FULLER CLARK: Thank you, Mr. President. I move ought to pass with amendment on House Bill 1741, which requires hospitals to report on hospital acquired infections to the Department of Health and Human Services. Hospital acquired infections result in an estimated \$5 billion in unnecessary healthcare costs and 90,000 deaths annually across the country. House Bill 1741 would gradually phase in mandatory reporting of six categories of infection on a per-hospital basis in New Hampshire. The bill includes a six-month startup period, a six-month pilot phase, and a seven-month data collection period, which allows hospitals to prepare for the new requirements. The committee adopted an amendment clarifying that the reporting is limited to hospital acquired infections, and changes the effective dates so that the positions and the financing are in the budget. The committee recommends ought to pass with amendment on House Bill 1741. Thank you, Mr. President.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

**HJR 20**, supporting stem cell research. Health and Human Services Committee. Ought to pass, Vote 4-0. Senator Estabrook for the committee.

SENATOR ESTABROOK: Thank you, Mr. President. HJR 20 is a resolution supporting all stem cell research that is recommended ought to pass by the Health and Human Services Committee. That little birdie that almost landed on Senator Burling earlier has come my way. So I will use the opportunity to say that, while I support this resolution in committee, it is not as strong as SCR 6 before this body amended it and sent it on to the House. And I need to use this as an opportunity to update my colleagues that yesterday the House, after a lengthy debate and seven votes, passed SCR 6 with a floor amendment, reinserting embryonic stem cell research into it, by a margin of over fifty votes. I think it's very clear that the House supports embryonic stem cell research. The people whose lives will be affected by a change in federal policy became very real to me and the rest of our committee, and I want to express my admiration to them all as we continue to work to achieve a leading role for our country in this cutting edge realm of science. I happened to catch a TV show the other day for a few minutes where Michael J. Fox was being interviewed. Many of you may be aware that he has a worsening case of Parkinson's Disease. He spoke about how his life revolves totally

around his treatment for Parkinson's Disease and how, even giving an interview of less than an hour, required much planning for the little time he might be able to do that, in terms of energy and wellness. He ended his remarks in that interview by asking the general public for its support of embryonic stem cell research, by saying we should do this for life and for the living. I clearly agree with him. The House clearly agrees with him. I know the Senate took an earlier position. I do hope that, after the birdie takes action on this bill, and SCR 6 comes back to Committee of Conference, we can open our eyes to the need for that resolution to move forward. Thank you, Mr. President.

**SENATOR MORSE:** Question of Senator Estabrook. Senator Estabrook, the House took a position on early child learning, so should we agree with them?

**SENATOR ESTABROOK:** No, we shouldn't. They have not yet taken that position, actually. They took a position in favor of early childhood learning. There's only been a small subcommittee vote so far that did not move that forward and it also did not kill it. Obviously, the House and Senate differ on many issues. My point is that the vast majority of the public and the vast majority of the House believe that we need to amend our federal policy. Our own congressmen believe we need to amend our current federal policy. And I do believe it's important we send that message to our Senate delegation.

### **MOTION TO TABLE**

**Senator Clegg moved to have HJR 20 laid on the table.**

**The question is on the motion to lay on the table.**

**A roll call was requested by Senator Larsen.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**The following Senators voted No: Burling, Odell, Gottesman, Foster, Larsen, D'Allesandro, Estabrook, Hassan, Fuller Clark.**

**Yeas: 15 – Nays: 9**

**Adopted.**

### **LAIID ON THE TABLE**

**HJR 20, supporting stem cell research.**

**SENATOR BARNES:** I want to ask a question, I guess. Would it be proper now to ask Senator Morse a question that I should have asked him a little while ago or should I ask him at the end of the session?

**SENATOR GATSAS (In the Chair):** I would suggest you ask him at the end of the session.

**SENATOR BARNES:** That will give him plenty of time to have that answer then. Thank you very much, Mr. President.

**HB 391,** relative to election affidavits. Internal Affairs Committee. Ought to pass, Vote 3-1. Senator Boyce for the committee.

**SENATOR BOYCE:** Thank you, Mr. President. I move that House Bill 391 ought to pass. This bill makes citizenship and domicile affidavits that are used for registration in voting public records for the limited purpose

of challenging the qualification of individuals registering to vote or voting. It also changes the time that these affidavits must be kept, and they must be retained for three years after the election. This is in order to make it possible to actually prosecute someone. We heard from the Attorney General's Office and others that part of the problem that we have in not finding anybody who has violated our voting laws is that some of the evidence that might be used in prosecuting someone is disposed of immediately after the election. In other words, these affidavits. The affidavits are gone; you can't use them to prosecute somebody for illegally having signed one and voted. So this makes the change that...it also makes a change as to who may take the oath of a person swearing a citizenship affidavit, a voter affidavit, or any other affidavit, and it will be by an election officer. Finally, I simply ask you that you join the Internal Affairs Committee and vote House Bill 391 ought to pass. Thank you.

SENATOR HASSAN: Thank you, Mr. President. I rise in opposition to the committee recommendation. Certainly I don't object to the notion that the affidavit should be kept for a requisite amount of time so that if somebody challenged the voter at issue, it would be able to be reviewed. But what this bill does is, it pulls out the citizenship and domicile affidavit from a list of information that is protected from right-to-know. Voter registration forms are not included in right-to-know. The information on absentee registration affidavits are not included in right-to-know. But citizenship and domicile affidavits would now be so that any member of the public could demand to look at them for the purpose of harassing somebody who simply filled one of these out. I find that troublesome. I also have some concerns about the restriction of election officials to take the oath. And, for that reason, I voted against the committee recommendation, and I would urge my colleagues to do the same. Thank you.

SENATOR BURLING: Thank you. The question is for my colleague here. Can you explain the public policy of restricting who may take the affidavit? The New Hampshire law relative to who may take the oath has been in place for two hundred and twenty years. Why do we want to mess about with the right of the justices of the peace, and justices period, and notaries public? I don't understand.

SENATOR BOYCE: I believe that was brought forth by an allegation that there were some people of questionable authority having taken some affidavits from people, signed them and then sent them into the polling place with an already filled out and authorized affidavit, and no one in the polling place seemed to know exactly who it was that had authorized that. It was not clear that they were being done correctly. In this case, it means that election officers can do it, and therefore, we know who it is that's authorizing this, that's taking this sworn affidavit.

SENATOR BURLING: Does the phrase, "may be sworn before any election officer", does that imply that it's an election officer of the town in which the affidavit is offered or can I go to Plainfield and get the affidavit done and come back to Cornish?

SENATOR BOYCE: It would be my belief that doing that would probably raise more questions with the local elections officers who were being presented this affidavit than it would solve. I think that they would question the validity of that person signing that affidavit. So I would say it would be the local.

**The question is on the committee report of ought to pass.**

**A roll call was requested by Senator Barnes.**

**Seconded by Senator Kenney.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Fuller Clark.**

**The following Senators voted No: Burling, Larsen, Hassan.**

**Yeas: 21 - Nays: 3**

**Adopted.**

**Ordered to third reading.**

**HB 501**, relative to citizenship and domicile affidavits. Internal Affairs Committee. Inexpedient to legislate, Vote 4-0. Senator Bragdon for the committee.

SENATOR BRAGDON: Thank you, Mr. President. I move HB 501 inexpedient to legislate. The bill provided that, if any information on a citizenship or domicile affidavit was inaccurate, that person's vote would be invalid. However, once the ballot has been cast, there is no way to retrieve it, thus there is no way this law could be enforced. So the committee's recommending inexpedient to legislate.

**Committee report of inexpedient to legislate is adopted.**

**HB 1172-FN**, relative to registration of political committees. Internal Affairs Committee. Ought to pass, Vote 5-0. Senator Bragdon for the committee.

SENATOR BRAGDON: Thank you, Mr. President. I move HB 1172 ought to pass. The bill modifies the requirement for registering political committees and requires that more information be given about officers of political committees. Mr. President, I believe this came about as the result of an incident in Milford and Amherst during this last election where a group calling themselves the Moderate Voters of Milford and Amherst, passed out voter guides recommending a slate of candidates that were surprisingly non-moderate. And though I took no offense that they didn't include me on their recommended list, it did turn out, after numerous threats of lawsuits, that it was sponsored by most of the democratic candidates as well as local democratic parties, and if the voters had known who were the people were that were involved with this, it probably would have been able to help them decide the accuracy of what they were portraying. Thank you very much. Please join the Internal Affairs Committee and vote House Bill 1172-FN ought to pass. Thank you.

**Adopted.**

**Ordered to third reading.**

**HB 1311-FN-A**, relative to the electronic filing of reports and applications with the secretary of state. Internal Affairs Committee. Ought to pass, Vote 3-2. Senator Roberge for the committee.

SENATOR ROBERGE: Thank you, Mr. President. I move House Bill 1311 ought to pass. This bill authorizes the Secretary of State to implement an electronic filing system for certain reports and applications that are filed with the office of the Secretary of State. The Secretary of State can currently do this, and their intent is to move in that direction. This bill will simply legitimize the process with legislation. Please join the Internal Affairs Committee and vote ought to pass.

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

**HB 1567**, relative to removing names from the checklist. Internal Affairs Committee. Ought to pass with amendment, Vote 4-0. Senator Boyce for the committee.

**Internal Affairs**  
**April 12, 2006**  
**2006-1800s**  
**03/04**

### **Amendment to HB 1567**

Amend the bill by replacing section 1 with the following:

1 New Sections; Periodic Maintenance and Verification of Checklists; Request to Correct the Checklist; Reports of Change of Address. Amend RSA 654 by inserting after section 36 the following new sections:

654:36-a Request to Correct the Checklist.

I. A supervisor of the checklist, the town or city clerk, or any other person, may submit a request for correction of the checklist to the supervisors of the checklist or to the town or city clerk based upon evidence that a person listed on the checklist is not qualified as a voter in the town or ward. The clerk shall forward requests for correction of the checklist to the supervisors of the checklist. At the next session of the supervisors, they shall examine the requests and determine whether or not it is more likely than not that the person's qualifications are in doubt.

II. If the supervisors of the checklist determine that it is more likely than not that the person's qualifications are in doubt, they shall send a notice to the person and afford the person at least 30 days to provide proof of his or her qualifications. If the person fails to respond to the 30-day notice or responds but fails to provide proof that establishes that it is more likely than not that the person is qualified to vote in the town or ward, the person's name shall be removed from the checklist.

654:36-b Reports of Change of Address If the supervisors of the checklist receive a report from the United States Postal Service or the department of safety directly or as communicated by the secretary of state through the centralized voter registration database that a voter has permanently changed his or her address to another town, city, or state, they shall strike that name from the checklist at the next session for the correction of the checklist. As an alternative, the supervisors of the checklist may first send a 30-day notice letter and then shall remove the name from the checklist if the voter does not respond to that notice.

**2006-1800s**

### **AMENDED ANALYSIS**

This bill authorizes any person to request that a person be removed from the checklist based on evidence that the person is not qualified as a voter in the town or ward. This bill also authorizes the supervisors of the checklist to strike names from the checklist based on a report of change of address from the United States Postal Service, the department of safety, or the secretary of state.

**SENATOR BOYCE:** Thank you, Mr. President. I move that House Bill 1567 ought to pass with amendment. This bill authorizes any person to present evidence that a person's name should be removed from the checklist, and it further provides that the supervisors of the checklist, at their next meeting, will decide whether or not there is a rational basis or if the evidence rises to the level that they should remove that name from the list. This makes it a little clearer as to who can ask for it to be removed, and it also allows some discretion for the supervisors to deter-

mine whether or not the evidence presented is adequate. For instance, a death certificate is probably suitable. A post card coming back with the wrong address may not. So this allows the supervisors to remove names and it just clarifies who can request that and how. I ask you to join the Internal Affairs Committee to vote HB 1567 ought to pass with amendment.

**Amendment adopted.**

Senator Burling offered a floor amendment.

Sen. Burling, Dist. 5

**April 20, 2006**

**2006-1944s**

**03/04**

**Floor Amendment to HB 1567**

Amend the bill by replacing section 1 with the following:

1 New Sections; Periodic Maintenance and Verification of Checklists; Request to Correct the Checklist; Reports of Change of Address. Amend RSA 654 by inserting after section 36 the following new sections:

654:36-a Request to Correct the Checklist.

I. A supervisor of the checklist, the town or city clerk, or any other person, may submit a request for correction of the checklist to the supervisors of the checklist or to the town or city clerk based upon evidence that a person listed on the checklist is not qualified as a voter in the town or ward. The clerk shall forward requests for correction of the checklist to the supervisors of the checklist. At the next session of the supervisors, they shall examine the requests and determine whether or not it is more likely than not that the person's qualifications are in doubt.

II. If the supervisors of the checklist determine that it is more likely than not that the person's qualifications are in doubt, they shall send a notice by certified mail return receipt requested to the person and afford the person at least 30 days to provide proof of his or her qualifications. If the person fails to respond to the 30-day notice or responds but fails to provide proof that establishes that it is more likely than not that the person is qualified to vote in the town or ward, the person's name shall be removed from the checklist.

654:36-b Reports of Change of Address If the supervisors of the checklist receive a report from the United States Postal Service or the department of safety directly or as communicated by the secretary of state through the centralized voter registration database that a voter has permanently changed his or her address to another town, city, or state, they shall strike that name from the checklist at the next session for the correction of the checklist. As an alternative, the supervisors of the checklist may first send a 30-day notice letter and then shall remove the name from the checklist if the voter does not respond to that notice.

**2006-1944s**

**AMENDED ANALYSIS**

This bill authorizes any person to request that a person be removed from the checklist based on evidence that the person is not qualified as a voter in the town or ward. This bill also authorizes the supervisors of the checklist to strike names from the checklist based on a report of change of address from the United States Postal Service, the department of safety, or the secretary of state.

SENATOR BURLING: Thank you, Mr. President. Mr. President, I propose the adoption of floor amendment 1944s.

SENATOR GATSAS (In the Chair): Floor amendment 1944s has been proposed. You may speak to your amendment as it's being passed out, Senator.

SENATOR BURLING: Thank you. It is a very tiny provision on line 14. It includes the statement that they shall send notice by certified mail, return receipt requested, to the person. It simply establishes that the mail service chosen is one that is relatively sure of demonstrating delivery. When we are talking about something as critical as a person's right to vote, the least we can do is demand that people insure the communication is complete. Thank you, Mr. President. I ask the adoption of 1944s.

SENATOR LETOURNEAU: Senator Burling, is this a 28-A issue? Are we demanding something from the communities that we're not going to pay for?

SENATOR BURLING: Well, in all candor, Senator, since almost all of this is a 28-A issue, this is just another 28-A issue that is focused on insuring that the supervisors of the check list actually make contact with the person they're trying to take off of the voter rolls. We are talking about something that is really critical. You know, if, in a year's time, somebody were to come back to this legislature and say, you know, we shelled out \$3,000 on these notices, then I think we ought to reimburse them in the budget. But we're adopting a policy that's taking people's voting rights away from them. The least we should do is require that the mail service chosen is one that produces a record of delivery.

SENATOR LETOURNEAU: Follow up. Senator Burling, I apologize for belaboring it, but under current law, I guess we send out notices. But if we demand certified mail, that's going to be a considerably larger expense, and I think this is something that we're demanding of the towns and cities of the state of New Hampshire without ever talking to them about it, and I think it's a 28-A issue and I can't support it.

SENATOR BURLING: May I respond? Thank you, Mr. President. Senator, if it is a 28-A issue at \$5, it is a 28-A issue at 39 cents per post card, and there is simply no way to avoid that. What I've done is, I've said, if you're going to do this by using mail contact, then you have to use mail contact that creates a record of delivery and response.

SENATOR LETOURNEAU: Thank you.

SENATOR BARNES: Senator Burling, help me out here a little bit.

SENATOR BURLING: Glad to.

SENATOR BARNES: If there's a mistake made with someone being taken off, don't we have same day registration so they could correct that when they came in to vote, they could re-register to vote if there was some problem, if something happened and they didn't get that registered letter?

SENATOR BURLING: Senator, you know, you've just put your finger on what I think is one of the essential, critical flaws here. Let's say it is my son, Jonathan.

SENATOR BARNES: I didn't mean to do that.

SENATOR BURLING: No, I know you didn't. But let's just follow it through. My son Jonathan flies back from college in order to vote in the November election because he wants to be voting for dear old dad,



assuming dad's running. He gets back and discovers that the Cornish supervisors have mailed him a card, which was not delivered, and then they've taken him off the polling records. I mean, he is no longer registered to vote in the state of New Hampshire. He comes and says, well, same day registration. And Jonathan's response to that is, "But I'm registered. I don't need to re-register. I'm registered. Why did you take me off?" What documents does he sign? What does he do at that point? I don't think that's what you want to do. If you want to use this as an investigative tool in order to take people off of the polling lists, then just do it by certified mail, return receipt requested. You find out whether they're actually there or not.

SENATOR BARNES: Follow up? Would you believe Jonathan, who wants to vote for dear old dad is not going to...if the clerk's telling they're in Cornish, that he isn't registered anymore, I don't think he's going to have a problem re-registering to vote for dear old dad, if dear old dad is running.

SENATOR BURLING: Well that is true because dear old dad lives in the town with 1,500 people, all of whom have known Jonathan all of his life. But in a city the size of any of our cities or a ward in any of our larger towns, that may not be the case. You may have a kid whose away at college and wants to come back and vote. I mean...

SENATOR BARNES: Thank you very much.

SENATOR BURLING: You're very welcome. I'm always happy to clarify the situation.

SENATOR FLANDERS: Thank you, Mr. President. I rise the same reason that Senator Barnes does. I think that, if a mistake is made, and it may happen, that they can fill out an affidavit and get back on the checklist. As far as cost is concerned, the procedure outlined in this bill is pretty much what we do now. So the cost for that original post card is being done now. In Antrim, for example, I'll use the one I know, is if we do that...and I can walk in and say my neighbor moved, and they'll send a card. So there's no additional cost, because they're doing that now. The only additional cost would be if you went out and certified it. But I sincerely believe that, with the same day registration, we really don't have a problem, because I think they would get back on the checklist, and we would not have the problem that is being outlined. Thank you.

SENATOR FOSTER: I rise in support of the amendment. I agree with what Senator Burling said. I don't think this is a 28-A issue at all. There's nothing mandated now, so we're not mandating anything extra. You know, the right to vote is very important. I think, at least in the legal world, when you want to make sure that somebody thinks something's important, you send them a certified letter. You know, we get bazillions of pieces of mail, but if something comes in certified, you open it up and you look at it, and you deal with it. And I think that's why this is important to add in. The other thing I'd say, and perhaps I'd open this up to a response, although I am not recognized to ask a question, if there is an absentee ballot situation, I'm not quite sure how it would get fixed. You know, if Senator Burling's son decides not to fly back to vote, but decides to get an absentee ballot, and he's not on the checklist at all, that I think, could probably really present a problem that can't be so easily fixed. Thank you, Mr. President.

SENATOR BRAGDON: Thank you, Mr. President. I just wanted to talk a little bit about the 28-A issue as well, without at risk of delaying this

even further. I asked that question at the hearing, I believe to the Attorney General's Office, and given that these checklists have to be purged every so often, it was their feeling that this was not a 28-A issue. It may cause the mailings for certain people to go out a little bit sooner than they normally would, but, and the process of purging the checklists, there will be mailings done. So the original bill as it sits here, was not a 28-A issue, in their opinion. I do feel the addition of certified mail would make it so.

**The question is on adoption of the floor amendment.**

**A roll call was requested by Senator Burling.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Burling, Green, Gottesman, Foster, Larsen, D'Allesandro, Estabrook, Hassan, Fuller Clark.**

**The following Senators voted No: Gallus, Johnson, Kenney, Boyce, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**Yeas: 9 - Nays: 15**

**Floor amendment failed.**

**The question is on the adoption of the bill as amended.**

**A roll call was requested by Senator Boyce.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Morse, Hassan.**

**The following Senators voted No: Burling, Gottesman, Foster, Larsen, Estabrook, Fuller Clark.**

**Yeas: 18 - Nays: 6**

**Adopted.**

**Ordered to third reading.**

**HB 1597-FN-L**, relative to municipal obligations for indigent medical expenses. Internal Affairs Committee. Ought to pass with amendment, Vote 4-1. Senator Bragdon for the committee.

**Internal Affairs**

**April 12, 2006**

**2006-1798s**

**05/01**

### **Amendment to HB 1597-FN-LOCAL**

Amend RSA 165:1, IV as inserted by section 1 of the bill by replacing it with the following:

IV. The local governing body of a town or city may adopt written guidelines to limit the coverage of its general assistance program for surgical and medical expenses, provided that there shall be no limitation for prescribed medication when there is no other means to provide such medication.

**2006-1798s**

### **AMENDED ANALYSIS**

This bill permits a municipality to limit coverage for surgical and medical expenses under the municipality's local assistance program.

**MOTION TO TABLE**

Senator Roberge moved to have HB 1597-FN-L laid on the table.

**Adopted.**

**LAIID ON THE TABLE**

**HB 1597-FN-L**, relative to municipal obligations for indigent medical expenses.

**HB 627-FN**, relative to including persons 17 years old in the juvenile justice system. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Foster for the committee.

**Senate Judiciary**

**April 11, 2006**

**2006-1757s**

**05/09**

**Amendment to HB 627-FN**

Amend the title of the bill by replacing it with the following:

AN ACT relative to extended jurisdiction over certain 17 year old offenders.

Amend the bill by replacing all after the enacting clause with the following:

1 Delinquent Children; Jurisdiction Over Certain Persons. Amend RSA 169-B:4, V(c) to read as follows:

(c) Who is ~~[committed to the custody of the department of health and human services at the youth development center pursuant to RSA 169-B:19, I(j)]~~ ***subject to the jurisdiction of the court prior to the minor's seventeenth birthday*** and for whom the department has filed a motion with the court requesting that the court retain jurisdiction under this subparagraph; provided that the department's motion is filed within the 90 days prior to the minor's seventeenth birthday and provided further that the court's jurisdiction pursuant to this subparagraph shall continue until the minor's eighteenth birthday.

2 Effective Date. This act shall take effect July 1, 2007.

**2006-1757s**

**AMENDED ANALYSIS**

This bill permits the court to retain jurisdiction over certain 17 year old offenders until their eighteenth birthday and removes the requirement that such offenders be committed to the youth development center.

SENATOR FOSTER: Thank you, Mr. President. I move HB 627-FN ought to pass with amendment. The bill, as introduced from the House, changed the age of majority from seventeen to eighteen for application of the adult criminal systems. That concept was rejected by the committee. Instead, as amended, it would allow juveniles already in the system, to remain under the jurisdiction of the court until they reach age eighteen to permit greater period of time to have treatment and supervision work. Currently, unless they are in the custody of YDC, young people must be released from the jurisdiction upon reaching age seventeen. Testimony received during the public hearing indicated allowing these young offenders to continue in the juvenile system until age eighteen could be very beneficial and reduce the risk that they re-offend and enter the adult system. The programs already available within the juvenile system are aimed to rehabilitation and prevention. Juvenile probation and

parole officers with similar caseloads can check on the charges each evening. In addition, seventeen-year-olds often have no place to turn when they're released. They're not yet adults legally, but they have no place to turn. This would allow the system to continue to provide support where it could do some good. The Judiciary Committee recommends that the legislation be adopted with amendment and asks for your support. Thank you, Mr. President.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

SENATOR FLANDERS: Question for Senator Foster. I'm curious in reading the hearing report that many of the police officers came in and testified against it. Can you give me a brief reason why they opposed it?

SENATOR FOSTER: They're opposed to the bill as I described, as it was originally came over from the House, raising the age of the majority from seventeen to eighteen. But, at least in conversations that I've had with some of the police officers and some of their testimony was, if you're going to expend funds, and this would cost money, spend it on the kids that are already in the system, don't bring kids into the system between seventeen and eighteen.

SENATOR FLANDERS: Follow up? And you put it back to seventeen?

SENATOR FOSTER: We actually didn't change it. What we did was we allowed the kids that are already in the system before age seventeen to stay in the system. So I don't think law enforcement is opposed to that, as far as I know.

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

**HB 656-FN**, relative to medical decision making for those adults without capacity to make health care decisions for themselves and establishing procedures for Do Not Resuscitate Orders. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Foster for the committee.

**Senate Judiciary**  
**April 12, 2006**  
**2006-1760s**  
**01/09**

### **Amendment to HB 656-FN**

Amend the bill by replacing section 2 with the following:

2 Written Directives for Medical Decision Making for Adults Without Capacity to Make Health Care Decisions for Themselves. RSA 137-J is repealed and reenacted to read as follows:

### **CHAPTER 137-J**

#### **WRITTEN DIRECTIVES FOR MEDICAL DECISION MAKING FOR ADULTS WITHOUT CAPACITY TO MAKE HEALTH CARE DECISIONS**

#### **137-J:1 Purpose and Policy.**

I. The state of New Hampshire recognizes that a person has a right, founded in the autonomy and sanctity of the person, to control the decisions relating to the rendering of his or her own medical care. In order that the rights of persons may be respected even after such persons lack the capacity to make health care decisions for themselves, and to encourage communication between patients and their attend-

ing physicians or ARNPs, the general court declares that the laws of this state shall recognize the right of a competent person to make a written directive:

(a) Delegating to an agent the authority to make health care decisions on the person's behalf, in the event such person is unable to make those decisions for himself or herself, either due to permanent or temporary lack of capacity to make health care decisions;

(b) Instructing his or her attending physician or ARNP to provide, withhold, or withdraw life-sustaining treatment, in the event such person is near death or is permanently unconscious.

II. All persons have a right to make health care decisions, including the right to refuse cardiopulmonary resuscitation. It is the purpose of the "Do Not Resuscitate" provisions of this chapter to ensure that the right of a person to self-determination relating to cardiopulmonary resuscitation is protected, and to give direction to emergency services personnel and other health care providers in regard to the performance of cardiopulmonary resuscitation.

137-J:2 Definitions. In this chapter:

I. "Advance directive" means a directive allowing a person to give directions about future medical care or to designate another person to make medical decisions if he or she should lose the capacity to make health care decisions. The term "advance directives" shall include living wills and durable powers of attorney for health care.

II. "Advanced registered nurse practitioner" or "ARNP" means a registered nurse who is licensed in good standing in the state of New Hampshire as having specialized clinical qualifications as provided in RSA 326-B:10.

III. "Agent" means an adult to whom authority to make health care decisions is delegated under an advance directive.

IV. "Attending physician or ARNP" means the physician or advanced registered nurse practitioner, selected by or assigned to a patient, who has primary responsibility for the treatment and care of the patient. If more than one physician or advanced registered nurse practitioner shares that responsibility, any one of those physicians or advanced registered nurse practitioners may act as the attending physician or ARNP under the provisions of this chapter.

V. "Capacity to make health care decisions" means the ability to understand and appreciate generally the nature and consequences of a health care decision, including the significant benefits and harms of and reasonable alternatives to any proposed health care.

VI. "Cardiopulmonary resuscitation" means those measures used to restore or support cardiac or respiratory function in the event of a cardiac or respiratory arrest.

VII. "Commissioner" means the commissioner of the department of health and human services.

VIII. "Do not resuscitate identification" means a standardized identification necklace, bracelet, card, or written medical order that signifies that a "Do Not Resuscitate Order" has been issued for the principal.

IX. "Do not resuscitate order" or "DNR order" (also known as "Do not attempt resuscitation order" or "DNAR order") means an order that, in the event of an actual or imminent cardiac or respiratory arrest, chest compression and ventricular defibrillation will not be performed, the patient will not be intubated or manually ventilated, and there will be no administration of resuscitation drugs.

X. "Durable power of attorney for health care" means a document delegating to an agent the authority to make health care decisions ex-

ecuted in accordance with the provisions of this chapter. It shall not mean forms routinely required by health and residential care providers for admissions and consent to treatment.

XI. "Emergency services personnel" means paid or volunteer firefighters, law-enforcement officers, emergency medical technicians, paramedics or other emergency services personnel, providers, or entities acting within the usual course of their professions.

XII. "Health care decision" means informed consent, refusal to give informed consent, or withdrawal of informed consent to any type of health care, treatment, admission to a health care facility, any service or procedure to maintain, diagnose, or treat an individual's physical or mental condition except as prohibited in this chapter or otherwise by law.

XIII. "Health care provider" means an individual or facility licensed, certified, or otherwise authorized or permitted by law to administer health care, for profit or otherwise, in the ordinary course of business or professional practice.

XIV. "Life-sustaining treatment" means any medical procedures or interventions which utilize mechanical or other medically administered means to sustain, restore, or supplant a vital function which, in the written judgment of the attending physician or ARNP, would serve only to artificially postpone the moment of death, and where the person is near death or is permanently unconscious. "Life-sustaining treatment" includes, but is not limited to, the following: mechanical respiration, kidney dialysis or the use of other external mechanical or technological devices. Life sustaining treatment may include drugs to maintain blood pressure, blood transfusions, and antibiotics. "Life-sustaining treatment" shall not include the administration of medication, natural ingestion of food or fluids by eating and drinking, or the performance of any medical procedure deemed necessary to provide comfort or to alleviate pain.

XV. "Living will" means a directive which, when duly executed, contains the express direction that no life-sustaining treatment be given when the person executing said directive has been diagnosed and certified in writing by the attending physician or ARNP to be near death or permanently unconscious, without hope of recovery from such condition and is unable to actively participate in the decision-making process.

XVI. "Medically administered nutrition and hydration" means invasive procedures such as, but not limited to the following: Nasogastric tubes; gastrostomy tubes; intravenous feeding or hydration; and hyperalimentation. It shall not include the natural ingestion of food or fluids by eating and drinking.

XVII. "Near death" means an incurable condition caused by injury, disease, or illness which is such that death is imminent and the application of life-sustaining treatment would, to a reasonable degree of medical certainty, as determined by 2 physicians or a physician and an ARNP, only postpone the moment of death.

XVIII. "Permanently unconscious" means a lasting condition, indefinitely without improvement, in which thought, awareness of self and environment, and other indicators of consciousness are absent as determined by an appropriate neurological assessment by a physician in consultation with the attending physician or an appropriate neurological assessment by a physician in consultation with an ARNP.

XIX. "Physician" means a medical doctor licensed in good standing to practice in the state of New Hampshire pursuant to RSA 329.

XX. "Principal" means a person 18 years of age or older who has executed an advance directive pursuant to the provisions of this chapter.

XXI. "Qualified patient" means a patient who has executed an advance directive in accordance with this chapter and who has been certified in writing by the attending physician or ARNP to lack the capacity to make health care decisions.

XXII. "Reasonable degree of medical certainty" means a medical judgment that is made by a physician or ARNP who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

XXIII. "Residential care provider" means a "facility" as defined in RSA 161-F:11, IV, a "nursing home" as defined in RSA 151-A:1, IV, or any individual or facility licensed, certified, or otherwise authorized or permitted by law to operate, for profit or otherwise, a residential care facility for adults, including but not limited to those operating pursuant to RSA 420-D.

XXIV. "Witness" means a competent person 18 years or older who is present when the principal signs an advance directive.

137-J:3 Freedom From Influence; Notice Required.

I. No health care provider or residential care provider, and no health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital service plan shall charge a person a different rate because of the existence or non-existence of an advance directive or do not resuscitate order, or require any person to execute an advance directive or require the issuance of a do not resuscitate order as a condition of admission to a hospital, nursing home, or residential care home, or as a condition of being insured for, or receiving, health or residential care services. Health or residential care services shall not be refused because a person is known to have executed an advance directive or have a do not resuscitate order.

II. The execution of an advance directive pursuant to this chapter shall not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired, modified or invalidated in any manner by the withholding or withdrawal of life-sustaining treatment from an insured person notwithstanding any term of the policy to the contrary.

III. Any health care provider or residential care provider which does not recognize DNR's or living wills shall post at every entrance and every place of admission, a notice which shall be a minimum size of 8"x 12" stating the following in legible print: "This hospital/ facility does not honor Do Not Resuscitate (DNR) or Living Will documents."

137-J:4 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect any other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

Advance Directives

137-J:5 Scope and Duration of Agent's Authority.

I. Subject to the provisions of this chapter and any express limitations set forth by the principal in an advance directive, the agent shall have the authority to make any and all health care decisions on the principal's behalf that the principal could make.

II. An agent's authority under an advance directive shall be in effect only when the principal lacks capacity to make health care decisions, as certified in writing by the principal's attending physician or ARNP, and filed with the name of the agent in the principal's medical record. When and if the principal regains capacity to make health care decisions, such

event shall be certified in writing by the principal's attending physician or ARNP, noted in the principal's medical record, the agent's authority shall terminate, and the authority to make health care decisions shall revert to the principal.

III. If the principal has no attending physician or ARNP for reasons based on the principal's religious or moral beliefs as specified in his or her advance directive, the advance directive may include a provision that a person designated by the principal in the advance directive may certify in writing, acknowledged before a notary or justice of the peace, as to the lack of decisional capacity of the principal. The person so designated by the principal shall not be the agent, or a person ineligible to be the agent.

IV. The principal's attending physician or ARNP shall make reasonable efforts to inform the principal of any proposed treatment, or of any proposal to withdraw or withhold treatment. Notwithstanding that an advance directive is in effect and irrespective of the principal's lack of capacity to make health care decisions at the time, treatment may not be given to or withheld from the principal over the principal's objection unless the principal's advance directive includes the following statement initialed by the principal, "Even if I am incapacitated and I object to treatment, treatment may be given to me against my objection."

V. Nothing in this chapter shall be construed to give an agent authority to:

(a) Consent to voluntary admission to any state institution;

(b) Consent to a voluntary sterilization; or

(c) Consent to withholding life-sustaining treatment from a pregnant principal, unless, to a reasonable degree of medical certainty, as certified on the principal's medical record by the attending physician or ARNP and an obstetrician who has examined the principal, such treatment or procedures will not maintain the principal in such a way as to permit the continuing development and live birth of the fetus or will be physically harmful to the principal or prolong severe pain which cannot be alleviated by medication.

137-J:6 Requirement to Act in Accordance with Principal's Wishes and Best Interests. After consultation with the attending physician or ARNP and other health care providers, the agent shall make health care decisions in accordance with the agent's knowledge of the principal's wishes and religious or moral beliefs, as stated orally or otherwise communicated by the principal, or, if the principal's wishes are unknown, in accordance with the agent's assessment of the principal's best interests and in accordance with accepted medical practice.

137-J:7 Physician, ARNP, and Provider's Responsibilities.

I. A qualified patient's attending physician or ARNP, or a qualified patient's health care provider or residential care provider, and employees thereof, having knowledge of the qualified patient's advance directive shall be bound to follow, as applicable, the dictates of the qualified patient's living will and or the directives of a qualified patient's designated agent to the extent they are consistent with this chapter and the advance directive, and to the extent they are within the bounds of responsible medical practice.

(a) An attending physician or ARNP, or other health care provider or residential care provider, who is requested to do so by the principal shall make the principal's advance directive or a copy of such document a part of the principal's medical record.



(b) Any person having in his or her possession a duly executed advance directive or a revocation thereof, if it becomes known to that person that the principal executing the same is in such circumstances that the terms of the advance directive might become applicable (such as when the principal becomes a "qualified patient"), shall forthwith deliver the same to the health care provider or residential care provider with which the principal is a patient.

(c) The principal's attending physician or ARNP, or any other health care provider under the attending physician's or ARNP's control or direction, who is aware of the principal's execution of an advance directive shall, without delay, take the necessary steps to provide for written verification of the principal's lack of capacity to make health care decisions (in other words, to certify that the principal is a "qualified patient"), and/or the principal's near death or permanently unconscious condition, as applicable and as appropriate to the principal's medical condition, so that the attending physician or ARNP and the principal's agent may be authorized to act pursuant to this chapter.

(d) If a physician or an ARNP, because of his or her personal beliefs or conscience, is unable to comply with the terms of the advance directive, he or she shall immediately inform the qualified patient, the qualified patient's family, or the qualified patient's agent. The qualified patient, or the qualified patient's agent or family, may then request that the case be referred to another physician or ARNP.

II. An attending physician or ARNP who, because of personal beliefs or conscience, is unable to comply with the advance directive pursuant to this chapter shall, without delay, make the necessary arrangements to effect the transfer of a qualified patient and the appropriate medical records that document the qualified patient's lack of capacity to make health care decisions to another physician or ARNP who has been chosen by the qualified patient, by the qualified patient's agent, or by the qualified patient's family, provided, that pending the completion of the transfer, the attending physician or ARNP shall not deny health care treatment, nutrition, or hydration which denial would, within a reasonable degree of medical certainty, result in or hasten the qualified patient's death against the express will of the qualified patient, the advance directive, or the agent.

III. When the direction of an agent or instruction under a living will requires an act or omission contrary to the moral or ethical principles or other standards of a health care provider or residential care provider of which the principal is a patient or resident, the health care provider shall allow for the transfer of the principal and the appropriate medical records to another health care provider chosen by the principal or by the agent and shall incur no liability for its refusal to carry out the terms of the direction by the agent; provided, that, pending the completion of the transfer, the health care provider or residential care provider shall not deny health care treatment, nutrition, hydration, or life sustaining treatment which denial would with a reasonable degree of medical certainty result in or hasten the principal's death against the expressed will of the principal, the principal's advance directive, or the agent; and further provided, that, the health care provider or residential care provider shall inform the agent of its decision not to participate in such an act or omission.

137-J:8 Restrictions on Who May Act as Agent. A person may not exercise the authority of agent while serving in one of the following capacities:

I. The principal's health care provider or residential care provider.

II. A nonrelative of the principal who is an employee of the principal's health care provider or residential care provider.

137-J:9 Confidentiality and Access to Protected Health Information.

I. Health care providers, residential care providers, and persons acting for such providers or under their control, shall be authorized to;

(a) Communicate to an agent any medical information about the principal, if the principal lacks the capacity to make health care decisions, necessary for the purpose of assisting the agent in making health care decisions on the principal's behalf.

(b) Provide copies of the principal's advance directives as necessary to facilitate treatment of the principal.

II. Subject to any limitations set forth in the advance directive by the principal, an agent whose authority is in effect shall be authorized, for the purpose of making health care decisions, to:

(a) Request, review, and receive any information, oral or written, regarding the principal's physical or mental health, including, but not limited to, medical and hospital records.

(b) Execute any releases or other documents which may be required in order to obtain such medical information.

(c) Consent to the disclosure of such medical information.

137-J:10 Withholding or Withdrawal of Life-Sustaining Treatment.

I. In the event a health care decision to withhold or withdraw life-sustaining treatment, including medically administered nutrition and hydration, is to be made by an agent, and the principal has not executed the "living will" of the advance directive, the following additional conditions shall apply:

(a) The principal's attending physician or ARNP shall certify in writing that the principal lacks the capacity to make health care decisions.

(b) Two physicians or a physician and an ARNP shall certify in writing that the principal is near death or is permanently unconscious.

(c) Notwithstanding the capacity of an agent to act, the agent shall make a good faith effort to explore all avenues reasonably available to discern the desires of the principal including, but not limited to, the principal's advance directive, the principal's written or spoken expressions of wishes, and the principal's known religious or moral beliefs.

II. Notwithstanding paragraph I, medically administered nutrition and hydration shall not be withdrawn or withheld under an advance directive unless:

(a) There is a clear expression of such intent in the directive;

(b) The principal objects pursuant to RSA 137-J:5, IV; or

(c) Such treatment would have the unintended consequence of hastening death or causing unnecessary harm as certified by an attending physician and a physician knowledgeable about the patient's condition.

III. The withholding or withdrawal of life-sustaining treatment pursuant to the provisions of this chapter shall at no time be construed as a suicide or murder for any legal purpose. Nothing in this chapter shall be construed to constitute, condone, authorize, or approve suicide, assisted suicide, mercy killing, or euthanasia, or permit any affirmative or deliberate act or omission to end one's own life or to end the life of another other than either to permit the natural process of dying of a patient near death or the removal of life-sustaining treatment from a patient in a permanently unconscious condition as provided in this chapter. The withholding or withdrawal of life-sustaining treatment in accor-

dance with the provisions of this chapter, however, shall not relieve any individual of responsibility for any criminal acts that may have caused the principal's condition.

IV. Nothing in this chapter shall be construed to condone, authorize, or approve:

(a) The consent to withhold or withdraw life-sustaining treatment from a pregnant principal, unless, to a reasonable degree of medical certainty, as certified on the principal's medical record by the attending physician or ARNP and an obstetrician who has examined the principal, such treatment or procedures will not maintain the principal in such a way as to permit the continuing development and live birth of the fetus or will be physically harmful to the principal or prolong severe pain which cannot be alleviated by medication.

(b) The arbitrary withholding or withdrawing of life-sustaining treatment from mentally incompetent or developmentally disabled persons.

V. Nothing in this chapter shall impair or supersede any other legal right or responsibility which any person may have to effect life-sustaining treatment in any lawful manner; provided, that this paragraph shall not be construed to authorize any violation of RSA 137-J:7, II or III.

VI. Nothing in this chapter shall be construed to revoke or adversely affect the privileges or immunities of health care providers or residential care providers and others to provide treatment to persons in need thereof in an emergency, as provided for under New Hampshire law.

VII. Nothing in this chapter shall be construed to create a presumption that in the absence of an advance directive, a person wants life-sustaining treatment to be either taken or withdrawn. This chapter shall also not be construed to supplant any existing rights and responsibilities under the law of this state governing the conduct of physicians or ARNPs in consultation with patients or their families or legal guardians in the absence of an advance directive.

137-J:11 Liability for Health Care Costs. Liability for the cost of health care provided pursuant to the agent's decision shall be the same as if the health care were provided pursuant to the principal's decision.

137-J:12 Immunity.

I. No person acting as agent pursuant to an advance directive shall be subjected to criminal or civil liability for making a health care decision on behalf of the principal in good faith pursuant to the provisions of this chapter and the terms of the advance directive if such person exercised such power in a manner consistent with the requirements of this chapter and New Hampshire law.

II. No health care provider or residential care provider, or any other person acting for the provider or under the provider's control, shall be subjected to civil or criminal liability or be deemed to have engaged in unprofessional conduct for:

(a) Any act or intentional failure to act, if the act or intentional failure to act is done pursuant to the dictates of an advance directive, the directives of the principal's agent, and the provisions of this chapter, and said act or intentional failure to act is done in good faith and in keeping with reasonable medical standards pursuant to the advance directive and in accordance with this chapter; or

(b) Failure to follow the directive of an agent if the health care provider or residential care provider or other such person believes in good faith and in keeping with reasonable medical standards that such

directive exceeds the scope of or conflicts with the authority of the agent under this chapter or the contents of the principal's advance directive; provided, that this subparagraph shall not be construed to authorize any violation of RSA 137-J:7, II or III.

III. Nothing in this section shall be construed to establish immunity for the failure to exercise due care in the provision of services or for actions contrary to the requirements of this chapter or other laws of the state of New Hampshire.

IV. For purposes of this section, "good faith" means honesty in fact in the conduct of the transaction concerned.

#### 137-J:13 Use of Statutory Forms.

I. Every person wishing to execute an advance directive shall be provided with a disclosure statement substantially in the form set forth in RSA 137-J:18 prior to execution. The principal shall be required to sign a statement acknowledging that he or she has received the disclosure statement and has read and understands its contents.

II. An advance directive executed on or after the effective date of this chapter shall be substantially in the form set forth in RSA 137-J:19.

III. Medically administered nutrition and hydration shall not be withdrawn or withheld under an advance directive unless there is a clear expression of such power in the document.

#### 137-J:14 Execution and Witnesses.

I. The advance directive shall be signed by the principal in the presence of either of the following:

(a) Two or more subscribing witnesses, neither of whom shall, at the time of execution, be the agent, the principal's spouse or heir at law, or a person entitled to any part of the estate of the principal upon death of the principal under a will, trust, or other testamentary instrument or deed in existence or by operation of law, or attending physician or ARNP, or person acting under the direction or control of the attending physician or ARNP. No more than one such witness may be the principal's health or residential care provider or such provider's employee. The witnesses shall affirm that the principal appeared to be of sound mind and free from duress at the time the advance directive was signed and that the principal affirmed that he or she was aware of the nature of the document and signed it freely and voluntarily; or

(b) A notary public or justice of the peace, who shall acknowledge the principal's signature pursuant to the provisions of RSA 456 or RSA 456-A.

II. If the principal is physically unable to sign, the advance directive may be signed by the principal's name written by some other person in the principal's presence and at the principal's express direction.

III. A principal's decision to exclude or strike references to ARNPs and the powers granted to ARNPs in his or her advance directive shall be honored.

#### 137-J:15 Revocation.

I. An advance directive consistent with the provisions of this chapter shall be revoked:

(a) By written revocation delivered to the agent or to a health care provider or residential care provider expressing the principal's intent to revoke, signed, and dated by the principal; by oral revocation in the presence of 2 or more witnesses, none of whom shall be the principal's spouse or heir at law; or by any other act evidencing a specific intent to revoke the power, such as by burning, tearing, or obliterating the same or causing the same to be done by some other person at the principal's direction and in the principal's presence;

- (b) By execution by the principal of a subsequent advance directive;
- (c) By the filing of an action for divorce, legal separation, annulment or protective order, where both the agent and the principal are parties to such action, except when there is an alternate agent designated, in which case the designation of the primary agent shall be revoked and the alternate designation shall become effective. Re-execution or written re-affirmation of the advance directive following a filing of an action for divorce, legal separation, annulment or protective order shall make effective the original designation of the primary agent under the advance directive; or
- (d) By a determination by a court under RSA 506:7 that the agent's authority has been revoked.

II. A principal's health or residential care provider who is informed of or provided with a revocation of an advance directive shall immediately record the revocation, and the time and date when he or she received the revocation, in the principal's medical record and notify the agent, the attending physician or ARNP, and staff responsible for the principal's care of the revocation. An agent who becomes aware of such revocation shall inform the principal's health or residential care provider of such revocation. Revocation shall become effective upon communication to the attending physician or ARNP.

137-J:16 Documents from Other States; Documents Executed Prior to Enactment. Nothing in this chapter limits the enforceability of a durable power of attorney for health care or living will or similar instrument validly executed under prior New Hampshire law or in another state or jurisdiction in compliance with the law of that state or jurisdiction. However, any exercise of power under such a previously valid or foreign advance directive or similar instrument shall be restricted by and in compliance with the requirements of this chapter and the laws of the state of New Hampshire.

137-J:17 Naming of Multiple Agents. If the principal lists more than one person as the agent in a durable power of attorney for health care directive, the agents shall have authority in priority of the order in which their names are listed on the document, unless the method of joint agency is expressly included.

137-J:18 Durable Power of Attorney; Disclosure Statement. The disclosure statement which must accompany a durable power of attorney for health care shall be in substantially the following form:

**INFORMATION CONCERNING THE DURABLE POWER OF ATTORNEY FOR HEALTH CARE**

**THIS IS AN IMPORTANT LEGAL DOCUMENT. BEFORE SIGNING IT, YOU SHOULD KNOW THESE IMPORTANT FACTS:**

Except if you say otherwise in the directive, this directive gives the person you name as your health care agent the power to make any and all health care decisions for you when you lack the capacity to make health care decisions for yourself (in other words, you no longer have the ability to understand and appreciate generally the nature and consequences of a health care decision, including the significant benefits and harms of and reasonable alternatives to any proposed health care). "Health care" means any treatment, service or procedure to maintain, diagnose or treat your physical or mental condition. Your health care agent, therefore, will have the power to make a wide range of health care decisions for you. Your health care agent may consent (in other words, give permission), refuse to consent, or withdraw consent to medical treatment, and may make decisions about withdrawing or withholding life-sustaining treatment. Your

health care agent cannot consent to or direct any of the following: commitment to a state institution, sterilization, or termination of treatment if you are pregnant and if the withdrawal of that treatment is deemed likely to terminate the pregnancy, unless the treatment will be physically harmful to you or prolong severe pain which cannot be alleviated by medication.

You may state in this directive any treatment you do not want, or any treatment you want to be sure you receive. Your health care agent's power will begin when your doctor certifies that you lack the capacity to make health care decisions (in other words, that you are not able to make health care decisions). If for moral or religious reasons you do not want to be treated by a doctor or to be examined by a doctor to certify that you lack capacity, you must say so in the directive and you must name someone who can certify your lack of capacity. That person cannot be your health care agent or alternate health care agent or any person who is not eligible to be your health care agent. You may attach additional pages to the document if you need more space to complete your statement.

If you want to give your health care agent power to withhold or withdraw medically administered nutrition and hydration, you must say so in your directive. Otherwise, your health care agent will not be able to direct that. Under no conditions will your health care agent be able to direct the withholding of food and drink that you are able to eat and drink normally.

Your agent shall be guided by your written instructions in this document when making decisions on your behalf, and as further guided by your medical condition or prognosis. Unless you state otherwise in the directive, your agent will have the same power to make decisions about your health care as you would have made, if those decisions by your health care agent are made consistent with state law.

It is important that you discuss this directive with your doctor or other health care providers before you sign it, to make sure that you understand the nature and range of decisions which could be made for you by your health care agent. If you do not have a health care provider, you should talk with someone else who is knowledgeable about these issues and can answer your questions. Check with your community hospital or hospice for trained staff. You do not need a lawyer's assistance to complete this directive, but if there is anything in this directive that you do not understand, you should ask a lawyer to explain it to you.

The person you choose as your health care agent should be someone you know and trust, and he or she must be at least 18 years old. If you choose your health or residential care provider (such as your doctor, advanced registered nurse practitioner, or an employee of a hospital, nursing home, home health agency, or residential care home, other than a relative), that person will have to choose between acting as your health care agent or as your health or residential care provider, because the law does not allow a person to do both at the same time.

You should consider choosing an alternate health care agent, in case your health care agent is unwilling, unable, unavailable or not eligible to act as your health care agent. Any alternate health care agent you choose will then have the same authority to make health care decisions for you.

You should tell the person you choose that you want him or her to be your health care agent. You should talk about this directive with your health care agent and your doctor or advanced registered nurse practi-

tioner and give each one a signed copy. You should write on the directive itself the people and institutions who will have signed copies. Your health care agent will not be liable for health care decisions made in good faith on your behalf.

**EVEN AFTER YOU HAVE SIGNED THIS DIRECTIVE, YOU HAVE THE RIGHT TO MAKE HEALTH CARE DECISIONS FOR YOURSELF AS LONG AS YOU ARE ABLE TO DO SO, AND TREATMENT CANNOT BE GIVEN TO YOU OR STOPPED OVER YOUR CLEAR OBJECTION.** You have the right to revoke the power given to your health care agent by telling him or her, or by telling your health care provider, orally or in writing, that you no longer want that person to be your health care agent.

Once this directive is executed it cannot be changed or modified. If you want to make changes, you must make an entirely new directive.

**THIS POWER OF ATTORNEY WILL NOT BE VALID UNLESS IT IS SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR JUSTICE OF THE PEACE OR TWO (2) OR MORE QUALIFIED WITNESSES, WHO MUST BOTH BE PRESENT WHEN YOU SIGN AND WHO WILL ACKNOWLEDGE YOUR SIGNATURE ON THE DOCUMENT. THE FOLLOWING PERSONS MAY NOT ACT AS WITNESSES:**

- The person you have designated as your health care agent;
- Your spouse or heir at law;
- Your attending physician or ARNP, or person acting under the direction or control of the attending physician or ARNP;

**ONLY ONE OF THE TWO WITNESSES MAY BE YOUR HEALTH OR RESIDENTIAL CARE PROVIDER OR ONE OF YOUR PROVIDER'S EMPLOYEES.**

137-J:19 Advance Directive; Durable Power of Attorney and Living Will; Form. An advance directive in its individual "Durable Power of Attorney for Healthcare" and "Living Will" components shall be in substantially the following form:

#### NEW HAMPSHIRE ADVANCE DIRECTIVE

NOTE: This form has two sections.

You may complete both sections, or only one section.

#### I. DURABLE POWER OF ATTORNEY FOR HEALTH CARE

I, \_\_\_\_\_, hereby appoint \_\_\_\_\_ of \_\_\_\_\_ (Please choose only one person. If you choose more than one agent, they will have authority in priority of the order their names are listed, unless you indicate another form of decision making.) as my agent to make any and all health care decisions for me, except to the extent I state otherwise in this directive or as prohibited by law. This durable power of attorney for health care shall take effect in the event I lack the capacity to make my own health care decisions.

In the event the person I appoint above is unable, unwilling or unavailable, or ineligible to act as my health care agent, I hereby appoint \_\_\_\_\_ of \_\_\_\_\_ as alternate agent.

(Please choose only one person. If you choose more than one alternate agent, they will have authority in priority of the order their names are listed.)

#### STATEMENT OF DESIRES, SPECIAL PROVISIONS, AND LIMITATIONS REGARDING HEALTH CARE DECISIONS.

For your convenience in expressing your wishes, some general statements concerning the withholding or removal of life-sustaining treatment are set forth below. (Life-sustaining treatment is defined as procedures without which a person would die, such as but not limited to the following: mechanical respiration, kidney dialysis or the use of other

external mechanical and technological devices, drugs to maintain blood pressure, blood transfusions, and antibiotics.) There is also a section which allows you to set forth specific directions for these or other matters. If you wish, you may indicate your agreement or disagreement with any of the following statements and give your agent power to act in those specific circumstances.

A. LIFE-SUSTAINING TREATMENT.

1. If I am near death and lack the capacity to make health care decisions, I authorize my agent to direct that:

*(Initial beside your choice of (a) or (b).)*

\_\_\_\_\_ (a) life-sustaining treatment not be started, or if started, be discontinued.

-or-

\_\_\_\_\_ (b) life-sustaining treatment continue to be given to me.

2. Whether near death or not, if I become permanently unconscious I authorize my agent to direct that:

*(Initial beside your choice of (a) or (b).)*

\_\_\_\_\_ (a) life-sustaining treatment not be started, or if started, be discontinued.

-or-

\_\_\_\_\_ (b) life-sustaining treatment continue to be given to me.

B. MEDICALLY ADMINISTERED NUTRITION AND HYDRATION.

1. I realize that situations could arise in which the only way to allow me to die would be to not start or to discontinue medically administered nutrition and hydration. In carrying out any instructions I have given in this document, I authorize my agent to direct that:

*(Initial beside your choice of (a) or (b).)*

\_\_\_\_\_ (a) medically administered nutrition and hydration not be started or, if started, be discontinued.

-or-

\_\_\_\_\_ (b) even if all other forms of life-sustaining treatment have been withdrawn, medically administered nutrition and hydration continue to be given to me.

(If you fail to complete item B, your agent will not have the power to direct the withholding or withdrawal of medically administered nutrition and hydration.)

C. ADDITIONAL INSTRUCTIONS.

Here you may include any specific desires or limitations you deem appropriate, such as when or what life-sustaining treatment you would want used or withheld, or instructions about refusing any specific types of treatment that are inconsistent with your religious beliefs or are unacceptable to you for any other reason. You may leave this question blank if you desire.

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*(attach additional pages as necessary)*

I hereby acknowledge that I have been provided with a disclosure statement explaining the effect of this directive. I have read and understand the information contained in the disclosure statement.

The original of this directive will be kept at \_\_\_\_\_ and the following persons and institutions will have signed copies:

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_

Principal's Signature: \_\_\_\_\_



*[If you are physically unable to sign, this directive may be signed by someone else writing your name, in your presence and at your express direction.]*  
**THIS POWER OF ATTORNEY DIRECTIVE MUST BE SIGNED BY TWO WITNESSES OR A NOTARY PUBLIC OR A JUSTICE OF THE PEACE.**

We declare that the principal appears to be of sound mind and free from duress at the time the durable power of attorney for health care is signed and that the principal affirms that he or she is aware of the nature of the directive and is signing it freely and voluntarily.

Witness: \_\_\_\_\_ Address: \_\_\_\_\_

Witness: \_\_\_\_\_ Address: \_\_\_\_\_

STATE OF NEW HAMPSHIRE

COUNTY OF \_\_\_\_\_

The foregoing durable power of attorney for health care was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ ("the Principal").

\_\_\_\_\_  
 Notary Public / Justice of the Peace

My commission expires:

## II. LIVING WILL

Declaration made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

I, \_\_\_\_\_, being of sound mind, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, do hereby declare: If at any time I should have an incurable injury, disease, or illness and I am certified to be near death or in a permanently unconscious condition by my attending physician or ARNP, and my attending physician or ARNP has determined that my death is imminent whether or not life-sustaining treatment is utilized and where the application of life-sustaining treatment would serve only to artificially prolong the dying process, or that I will remain in a permanently unconscious condition, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication, the natural ingestion of food or fluids by eating and drinking, or the performance of any medical procedure deemed necessary to provide me with comfort care. I realize that situations could arise in which the only way to allow me to die would be to discontinue medically administered nutrition and hydration.

In carrying out any instruction I have given under this section, I authorize that:

*(Initial beside your choice of (a) or (b).)*

\_\_\_\_ (a) medically administered nutrition and hydration not be started or, if started, be discontinued,  
 -or-

\_\_\_\_ (b) even if all other forms of life-sustaining treatment have been withdrawn, medically administered nutrition and hydration continue to be given to me.

In the absence of my ability to give directions regarding the use of such life-sustaining treatment, it is my intention that this declaration shall be honored by my family and health care providers as the final expression of my right to refuse medical or surgical treatment and accept the consequences of such refusal.

I understand the full import of this declaration, and I am emotionally and mentally competent to make this declaration.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_

Principal's Signature: \_\_\_\_\_

*[If you are physically unable to sign, this directive may be signed by someone else writing your name, in your presence and at your express direction.]*  
**THIS LIVING WILL DIRECTIVE MUST BE SIGNED BY TWO WITNESSES OR A NOTARY PUBLIC OR A JUSTICE OF THE PEACE.**

We declare that the principal appears to be of sound mind and free from duress at the time the living will is signed and that the principal affirms that he or she is aware of the nature of the directive and is signing it freely and voluntarily.

Witness: \_\_\_\_\_ Address: \_\_\_\_\_

Witness: \_\_\_\_\_ Address: \_\_\_\_\_

STATE OF NEW HAMPSHIRE

COUNTY OF \_\_\_\_\_

The foregoing living will was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ (the "Principal").

Notary Public / Justice of the Peace

My commission expires:

137-J:20 Effect of Appointment of Guardian; Inconsistency.

I. On motion filed in connection with a petition for appointment of a guardian or on petition of a guardian if one has been appointed, the probate court shall consider whether the authority of an agent designated pursuant to an advance directive should be suspended or revoked. In making its determination, the probate court shall take into consideration the preferences of the principal as expressed in the advance directive. No such consideration shall change the procedures or burden of proof involved in the guardianship process as otherwise provided by law or procedures. In such consideration, the advance directive and agent appointed shall be presumed to be in the best interest of the principal and valid, absent clear and convincing evidence to the contrary.

II. To the extent that a durable power of attorney for health care, or such component of an advance directive as set forth in RSA 137-J:19, conflicts with a terminal care document or living will, or such component of an advance directive as set forth in RSA 137-J:19, the durable power of attorney for health care shall control.

137-J:21 Civil Action.

I. The principal or any person who is a near relative of the principal, or who is a responsible adult who is directly interested in the principal by personal knowledge and acquaintance, including, but not limited to a guardian, social worker, physician, or clergy, may file an action in the probate court of the county where the principal is located at the time:

(a) Requesting that the authority granted to an agent by an advance directive be revoked on the grounds that the principal was not of sound mind or was under duress, fraud, or undue influence when the advance directive was executed, and shall have all the rights and remedies provided by RSA 506:7 which shall apply to directives executed under this chapter and persons acting pursuant to this chapter.

(b) Challenging the right of any agent who is acting or who proposes to act as such pursuant to this chapter and naming another person, who agrees to so act, to be appointed guardian over the person of the principal for the sole purpose of making health care decisions, as provided for in RSA 464-A.

II. A copy of any such action shall be given in hand to the principal's attending physician or ARNP and, as applicable, to the principal's health care provider or residential care provider. To the extent they are not irreversibly implemented, health care decisions made by a challenged

agent shall not thereafter be implemented without an order of the probate court or a withdrawal or dismissal of the court action; provided, that this paragraph shall not be construed to authorize any violation of RSA 137-J:7, II or III.

III. The probate court in which such a petition is filed shall hold a hearing as expeditiously as possible.

137-J:22 Penalty. A person who knowingly and falsely makes, alters, forges, or counterfeits, or knowingly and falsely causes to be made, altered, forged, or counterfeited, or procures, aids or counsels the making, altering, forging, or counterfeiting, of an advance directive or revocation of same with the intent to injure or defraud a person shall be guilty of a class B felony, notwithstanding any provisions in title LXII.

Do Not Resuscitate

137-J:23 Applicability. The provisions of this subdivision apply to all persons regardless of whether or not they have completed an advance directive.

137-J:24 Presumed Consent to Cardiopulmonary Resuscitation; Health Care Providers and Residential Care Providers Not Required to Expand to Provide Cardiopulmonary Resuscitation.

I. Every person shall be presumed to consent to the administration of cardiopulmonary resuscitation in the event of cardiac or respiratory arrest, unless one or more of the following conditions, of which the health care provider or residential care provider has actual knowledge, apply:

(a) A do not resuscitate order in accordance with the provisions of this chapter has been issued for that person;

(b) A completed advance directive for that person is in effect, pursuant to the provisions of this chapter, in which the person indicated that he or she does not wish to receive cardiopulmonary resuscitation, or his or her agent has determined that the person would not wish to receive cardiopulmonary resuscitation;

(c) A person who lacks capacity to make health care decisions is near death and admitted to a health care facility, and the person's agent is not reasonably available or is not legally capable of making health care decisions for the person, and the attending physician or ARNP, and a concurring second physician, have determined that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards and would cause harm to the person, and the attending physician or ARNP has completed a do not resuscitate order; or

(d) A person is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof.

II. Nothing in this section shall be construed to revoke any statute, regulation, or law otherwise requiring or exempting a health care provider or residential care provider from instituting or maintaining the ability to provide cardiopulmonary resuscitation or expanding its existing equipment, facilities, or personnel to provide cardiopulmonary resuscitation.

137-J:25 Issuance of a Do Not Resuscitate Order; Order to be Written by the Attending Physician or ARNP.

I. An attending physician or ARNP may issue a do not resuscitate order for a person if the person, or the person's agent, has consented to the order. A do not resuscitate order shall be issued in writing in the form as described in this section for a person not present or residing in a health care facility. For persons present in health care facilities, a do not resuscitate order shall be issued in accordance with the policies and procedures of the health care facility and in accordance with the provisions of this chapter.

II. A person may request that his or her attending physician or ARNP issue a do not resuscitate order for the person.

III. An agent may consent to a do not resuscitate order for a person who lacks the capacity to make health care decisions if the advance directive signed by the principal grants such authority. A do not resuscitate order written by the attending physician or ARNP for such a person with the consent of the agent is valid and shall be respected by health care providers and residential care providers.

IV. If an agent is not reasonably available or is not legally capable of making a decision regarding a do not resuscitate order, an attending physician or ARNP may issue a do not resuscitate order for a person who lacks capacity to make health care decisions, who is near death, and who is admitted to a health care facility if a second physician who has personally examined the person concurs in the opinion of the attending physician or ARNP that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards and would cause harm to the person.

V. For persons not present or residing in a health care facility, the do not resuscitate order shall be noted on a medical orders form or in substantially the following form on a card suitable for carrying on the person:

**Do Not Resuscitate Order**

As attending physician or ARNP of \_\_\_\_\_ and as a licensed physician or advanced registered nurse practitioner, I order that this person **SHALL NOT BE RESUSCITATED** in the event of cardiac or respiratory arrest.

This order has been discussed with \_\_\_\_\_ (or, if applicable, with his/her agent,) \_\_\_\_\_, who has given consent as evidenced by his/her signature below.

Attending physician or ARNP Name \_\_\_\_\_

Attending physician or ARNP Signature \_\_\_\_\_

Address \_\_\_\_\_

Person Signature \_\_\_\_\_

Address \_\_\_\_\_

Agent Signature (*if applicable*) \_\_\_\_\_

Address \_\_\_\_\_

VI. For persons residing in a health care facility, the do not resuscitate order shall be reflected in at least one of the following forms:

(a) Forms required by the policies and procedures of the health care facility in compliance with this chapter;

(b) The do not resuscitate card as set forth in paragraph V; or

(c) The medical orders form in compliance with this chapter.

**137-J:26 Compliance With a Do Not Resuscitate Order.**

I. Health care providers and residential care providers shall comply with the do not resuscitate order when presented with one of the following:

(a) A do not resuscitate order completed by the attending physician or ARNP on a form as specified in RSA 137-J:25;

(b) A do not resuscitate order for a person present or residing in a health care facility issued in accordance with the health care facility's policies and procedures in compliance with the chapter; or

(c) A medical orders form on which the attending physician or ARNP has documented a do not resuscitate order in compliance with this chapter.

II. Pursuant to this chapter, health care providers shall respect do not resuscitate orders for persons in health care facilities, ambulances, homes, and communities within this state.

137-J:27 Protection of Persons Carrying Out in Good Faith a Do Not Resuscitate Order; Notification of Agent by Attending Physician or ARNP Refusing to Comply With Do Not Resuscitate Order.

I. No health care provider or residential care provider, or any other person acting for the provider or under the provider's control, shall be subjected to criminal or civil liability, or be deemed to have engaged in unprofessional conduct, for carrying out in good faith a do not resuscitate order authorized by this chapter on behalf of a person as instructed by the person, or the person's agent, or for those actions taken in compliance with the standards and procedures set forth in this chapter.

II. No health care provider or residential care provider, or any other person acting for the provider or under the provider's control, or other individual who witnesses a cardiac or respiratory arrest shall be subjected to criminal or civil liability for providing cardiopulmonary resuscitation to a person for whom a do not resuscitate order has been issued; provided, that such provider or individual:

(a) Reasonably and in good faith is unaware of the issuance of a do not resuscitate order; or

(b) Reasonably and in good faith believed that consent to the do not resuscitate order has been revoked or canceled.

III.(a) Any attending physician or ARNP who, because of personal beliefs or conscience, refuses to issue a do not resuscitate order at a person's request or to comply with a do not resuscitate order issued pursuant to this chapter shall take reasonable steps to advise promptly the person or agent of the person that such attending physician or ARNP is unwilling to effectuate the order. The attending physician or ARNP shall thereafter at the election of the person or agent permit the person or agent to obtain another attending physician or ARNP.

(b) If a physician or ARNP, because of his or her personal beliefs or conscience, is unable to comply with the terms of a do not resuscitate order, he or she shall immediately inform the person, the person's agent, or the person's family. The person, the person's agent, or the person's family may then request that the case be referred to another physician or ARNP, as set forth in RSA 137-J:7, II and III.

137-J:28 Revocation of Do Not Resuscitate Order.

I. At any time a person in a health care facility may revoke his or her previous request for or consent to a do not resuscitate order by making either a written, oral, or other act of communication to the attending physician or ARNP or other professional staff of the health care facility.

II. At any time a person residing at home may revoke his or her do not resuscitate order by destroying such order and removing do not resuscitate identification on his or her person. The person is responsible for notifying his or her attending physician or ARNP of the revocation.

III. At any time an agent may revoke his or her consent to a do not resuscitate order for a person who lacks capacity to make health care decisions who is admitted to a health care facility by notifying the attending physician or ARNP or other professional staff of the health care facility of the revocation of consent in writing, or by orally notifying the attending physician or ARNP in the presence of a witness 18 years of age or older.

IV. At any time an agent may revoke his or her consent for a person who lacks capacity to make health care decisions who is residing at home

by destroying such order and removing do not resuscitate identification from the person. The agent is responsible for notifying the person's attending physician or ARNP of the revocation.

V. The attending physician or ARNP who is informed of or provided with a revocation of consent pursuant to this section shall immediately cancel the do not resuscitate order if the person is in a health care facility and notify the professional staff of the health care facility responsible for the person's care of the revocation and cancellation. Any professional staff of the health care facility who is informed of or provided with a revocation of consent pursuant to this section shall immediately notify the attending physician or ARNP of such revocation.

VI. Only a physician or advanced registered nurse practitioner may cancel the issuance of a do not resuscitate order.

137-J:29 Not Suicide or Murder. The withholding of cardiopulmonary resuscitation from a person in accordance with the provisions of this chapter shall not, for any purpose, constitute suicide or murder. The withholding of cardiopulmonary resuscitation from a person in accordance with the provisions of this chapter, however, shall not relieve any individual of responsibility for any criminal acts that may have caused the person's condition. Nothing in this chapter shall be construed to legalize, condone, authorize, or approve mercy killing or assisted suicide.

137-J:30 Interinstitutional Transfers. If a person with a do not resuscitate order is transferred from one health care facility to another health care facility, the health care facility initiating the transfer shall communicate the existence of a do not resuscitate order to the receiving facility prior to the transfer. The written do not resuscitate order, the do not resuscitate card as described in RSA 137-J:25, or the medical orders form shall accompany the person to the health care facility receiving the person and shall remain effective until a physician at the receiving facility issues admission orders. The do not resuscitate card or the medical orders form shall be kept as the first page in the person's transfer records.

137-J:31 Preservation of Existing Rights.

I. Nothing in this chapter shall impair or supersede any legal right or legal responsibility which any person may have to effect the withholding of cardiopulmonary resuscitation in any lawful manner. In such respect, the provisions of this chapter are cumulative; provided, that this paragraph shall not be construed to authorize any violation of RSA 137-J:7, II or III.

II. Nothing in this chapter shall be construed to preclude a court of competent jurisdiction from approving the issuance of a do not resuscitate order under circumstances other than those under which such an order may be issued pursuant to the provisions of this chapter.

137-J:32 Do Not Resuscitate Identification. Do not resuscitate identification as set forth in this chapter may consist of either a medical condition bracelet or necklace with the inscription of the person's name, date of birth in numerical form and "NH Do Not Resuscitate" or "NH DNR" on it. Such identification shall be issued only upon presentation of a properly executed do not resuscitate order form as set forth in RSA 137-J:25, a medical orders form in which a physician or advanced registered nurse practitioner has documented a do not resuscitate order, or a do not resuscitate order properly executed in accordance with a health care facility's written policy and procedure.

SENATOR FOSTER: Thank you, Mr. President. I move HB 656-FN ought to pass with amendment. This bill updates New Hampshire's living wills and durable powers of attorney for health care documents and establishes

procedures for Do Not Resuscitate Orders. The legislation is the work of two years in the House and comes to the Senate with support of our hospitals, physicians and many other individuals. The new advanced directives provide for simple definitions which can be understood by people without the assistance of legal counsel. The process no longer requires that the documents be notarized, but can be witnessed by two individuals, which will make it much easier in the hospitals or other settings for documents to be completed. These documents are important. If they're completed, an individual wishes as to treatment will be known and respected when they are no longer to speak for themselves. Simplifying the method by which they can be completed means more individuals will complete them, and more individuals' wishes will be known. The amendment by the committee spelled out the circumstances under which DNR orders can be entered effectively enacting common practice in hospitals today, clarified ambiguity under New Hampshire laws as to whether an individual who is incapacitated can be treated when treatment by them is refused, and prescribes that artificial nourishment can be withdrawn in circumstances when it harms or can hasten death for the patient. These issues are difficult to legislate and to talk about. They can instill deep emotions and touch on matters of faith. But at bottom, this bill will respect and honor wishes of those at the most difficult times of their lives and permit sensible decisions about treatment to be made and consultation with a medical experts. Lastly, the Judiciary Committee wishes to state for the record that their intent that Living Will documents, Durable Powers of Attorney for Health Care and other estate planning documents that were executed in New Hampshire prior to the enactment of this legislation, will continue to be recognized and honored in the state of New Hampshire. The Judiciary Committee recommends that this legislation be adopted as amended and asks for your support. Thank you.

SENATOR BARNES: Thank you, Mr. President. Senator Foster? I got a couple of questions here that a little bird landed on my shoulder and told me that there had to be signage at hospitals. Is that part of this legislation or is it already in place, letting people know that their living wills might not be honored?

SENATOR FOSTER: Yes. I think there's a provision in the legislation that was added, and I am not sure where. I was trying to find the places where the questions might come up in the bill, where if a hospital would refuse to honor certain parts of an advanced directive, that families be notified before the patients come to the hospitals so they might be able to move elsewhere if they want too.

SENATOR BARNES: Follow up question. My follow up question is this, Senator Foster. I'm in Manchester, my wife's up in Maine. I get in an automobile accident. The accident puts me in the back of it, they lug me to Catholic Medical Center, which has this sign up. I don't want tubes. My living will says no tubes. The good Lord put me here, he'll take me away the way he sent me in, bare naked and gone. But is it my understanding that this piece of legislation that Catholic Medical Center, I'm only singling them out because being in the area, they could say the heck with this guy's living will and put those tubes in me before my wife could get there? And if that's so, does my wife have to get all the way over from wherever she might be to call an ambulance to get me out of that hospital to take me to let's say, Elliot, that doesn't have that same piece of legislation?

SENATOR FOSTER: Yes. You raise a difficult issue with emergency circumstances. That's what you're talking about, where there's not a choice.

SENATOR BARNES: That's what I'm talking about.

SENATOR FOSTER: And the person shows up. I don't think this changes what is current practice. They do have to allow you to be transferred, of course, but it doesn't change current practice, as I understand it.

SENATOR BARNES: The answer is, my wife or my sons or my daughter would have to take me out of Catholic Medical Center and send me someplace that will recognize my living will?

SENATOR FOSTER: If Catholic Medical Center chooses not to honor that, which I don't know what their policy is, frankly.

SENATOR BARNES: Wow. Thank you for clarifying that for me. Makes my vote easy.

SENATOR FOSTER: And again, I would state that that's what I think current practice is. It doesn't change current practice. The hospitals can do that today.

SENATOR MARTEL: Thank you very much, Mr. President. Senator Foster? This is a religious question, of course. It's on religious ethics. This would not only be for the Catholics but also for any other religious institution that follows those ethics and are bound by those ethics. Correct? If this was a Jewish hospital or a Jewish institution, if they don't have the right to resuscitate, or they don't follow that, or they do resuscitate, it doesn't matter what religion it is, it's a religious thing. Correct?

SENATOR FOSTER: The provisions of the bill don't distinguish between religious faiths or practices at any hospital.

SENATOR MARTEL: Thank you.

SENATOR FLANDERS: Mr. President. Senator Foster, just to clarify. I can't find it now. In reading the bill, there was an area that said out-of-state and are you going to make it clear that if I have a living will and this does change some of my living will...will still be proper even though this goes into effect?

SENATOR FOSTER: Yes. That's what I said in my remarks. But, there is some lack of clarity, some feel in the bill. So we wanted to make that clear that that exists today.

SENATOR FLANDERS: Yes, that's what I wanted to clarify. So in other words, those of us that have 'em, we just keep them.

SENATOR FOSTER: That you don't have to have them redone.

SENATOR FLANDERS: From this day forward, it will be different?

SENATOR FOSTER: That is the intention of the bill.

SENATOR FLANDERS: Thank you, sir.

SENATOR CLEGG: Thank you, Mr. President. I just wanted to point out and clarify that in the legislation, it says "any healthcare provider or residential care provider which does not recognize DNR's or Living Wills would have to post." So it's not just the hospital; it could be a nursing home or it could be a hospice. So it goes for everyone. Thank you.

SENATOR LARSEN: I just rise to read from a letter, which I suspect many of you got from a physician at Dartmouth Hitchcock, who of course deals with these issues every day, praising the Senate Judiciary



Committee's amendment assuring that care can be given in accordance with the accepted medical practice. He writes, "Without these changes, the law would require some dying patients to submit to continued medical administered intravenous or stomach tube nutrition, even if it was causing them harm, and to undergo CPR chest compressions and/or tracheal tubes, and electrical shocks to their chest, even when it was literally futile and would only assault their bodies and erode the dignity of their last moments in life." This is a person who sees this every day. This is a person who's in a profession that his life affirming a person who has worked with families. He writes, "Dying is never easy, but I've learned that preparation can make a world of difference." He advocated for this amendment and this bill. I think we need to listen to those who've dealt with this and support the amendment.

SENATOR LETOURNEAU: Senator Foster. Senator Foster, thank you for taking the question. There's been some speculation that this was an angel of mercy bill, this was some sort of end-of-life bill, and those of us that worked on the Judiciary Committee know differently, but can you add anything to that?

SENATOR FOSTER: I think actually the letter that Senator Larsen read from, talks to that point. And actually, right in the bill, it says that there's no assisted suicide permitted or any of those sorts of things that people are saying about it. It expressly prohibits those things. So that's completely not a fair representation of the bill at all.

SENATOR LETOURNEAU: Thank you for putting that on the record.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

Senator Barnes in opposition to HB 656-FN

**HB 1335**, relative to the authority of law enforcement officers during a state of emergency. Judiciary Committee. Ought to pass, Vote 4-0. Senator Roberge for the committee.

SENATOR ROBERGE: Thank you, Mr. President. I move House Bill 1335 ought to pass. This bill clarifies the authority of the uniformed law enforcement officers to make arrests and exercise police powers anywhere in the state during a declared state of emergency. New Hampshire statutes explicitly outline authority of our law enforcement officers during states of emergency, but in cases such as the aftermath of Hurricane Katrina, when law enforcement officials were sent in from other states, too often statutes have not addressed to whom they report to or where the emergency authority ceases. The provisions of this legislation clarify in statute these situations. Therefore, the Judiciary Committee recommends this legislation ought to pass.

Senator Bragdon offered a floor amendment.

Sen. Bragdon, Dist. 11

**April 20, 2006**

**2006-1947s**

**05/04**

### **Floor Amendment to HB 1335**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the authority of law enforcement officers during a state of emergency and prohibiting the taking of arms and ammunition in a declared state of emergency.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 4:

2 State of Emergency; Taking of Private Property. Amend RSA 4:46, I(c)(1) to read as follows:

(1) Any high explosives[~~, except small arms ammunition~~].

3 New Paragraph; State of Emergency; Taking of Firearms, Ammunition, and Ammunition Components Prohibited. Amend RSA 4:46 by inserting after paragraph I the following new paragraph:

I-a. Under no circumstances shall this section be construed to authorize the taking, confiscation, or seizure of firearms, ammunition, or ammunition components.

**2006-1947s**

### AMENDED ANALYSIS

This bill clarifies the authority of law enforcement officers to make arrests and exercise police powers anywhere in the state during a state of emergency. The bill also clarifies that the state may not take possession of firearms, ammunition, and ammunition components in a declared state of emergency.

SENATOR BRAGDON: Thank you, Mr. President. I would like to move a floor amendment please. Number, I think 1947.

SENATOR GATSAS (In the Chair): Floor amendment 1947 has been proposed. You may speak to the amendment as it's being passed out.

SENATOR BRAGDON: Thank you, Mr. President. A while ago, the Senate passed a bill, I believe it was Senate Bill 348, that made it very clear in statute that, during a state of emergency, the government does not have the right to confiscate firearms, ammunition or ammunition components. And you may recall that was brought by partisan support. Senator Burling worked hard on an amendment that made it very clear. For some reason, that bill, I've been told, has died in the House. However, this bill that we're talking about right now, basically authorizing law enforcement officers from other states to come into our state to do some of the things in a state of emergency, I think it's even more important that we make it crystal clear in our statutes, that the taking of arms, ammunition or components is not allowed, because that was clearly one of the concerns that resulted after the incident in New Orleans. So, I think this is a great statement for us to make, that this is an important piece of this for us. So I'd like to move 1947.

SENATOR BARNES: Thank you. Senator Bragdon, this is exactly the same that we passed?

SENATOR BRAGDON: This is exactly the same language that we had in 348.

SENATOR BARNES: Thank you very much, Senator.

**Recess.**

**Out of recess.**

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**A roll call was requested by Senator Clegg.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: None.**

**Yeas: 24 - Nays: 0**

**Adopted.**

**Ordered to third reading.**

**HB 1419-FN**, relative to mediation in divorce proceedings. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Gottesman for the committee.

**Senate Judiciary**

**April 11, 2006**

**2006-1751s**

**04/09**

**Amendment to HB 1419-FN**

Amend RSA 458:15-c, III(f) as inserted by section 1 of the bill by replacing it with the following:

IV. The court shall not order mediation if there is a finding of domestic violence as defined in RSA 173-B:1, unless all parties agree to mediation.

SENATOR GOTTESMAN: Thank you, Mr. President. I move House Bill 1419-FN ought to pass with amendment. This legislation permits the court to order mediation in divorce proceedings if either party requests mediation or at the court's discretion. Current statutes relating to mediation in divorces apply only when children are involved. House Bill 1419 would impact divorces when there are no children. The committee amendment clarifies that, in cases involving domestic violence, mediation shall not be ordered unless all parties agree to it. The mediation programs have been working very successfully in our courts. This legislation is another attempt at providing a more successful divorce process with fewer long-term problems. Therefore, the Judiciary Committee recommends that this legislation be adopted with amendment and asks your support. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1565**, relative to evictions in cases involving incidents of domestic violence. Judiciary Committee. Interim Study, Vote 3-0. Senator Foster for the committee.

**MOTION TO TABLE**

Senator Foster moved to have HB 1565 laid on the table.

**Adopted.**

**LAID ON THE TABLE**

**HB 1565**, relative to evictions in cases involving incidents of domestic violence.

**HB 1667-FN**, establishing penalties for methamphetamine manufacturing and possession of substances with intent to manufacture methamphetamine. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Clegg for the committee.

**Senate Judiciary**

**April 12, 2006**

**2006-1767s**

**04/09**

**Amendment to HB 1667-FN**

Amend RSA 318-D:1, as inserted by section 1 of the bill by replacing it with the following:

318-D:1 Definitions. In this chapter:

I. "Anhydrous ammonia" means ammonia that has been cooled, pressurized, or both so that it exists in liquid form. Water may be present in varying degrees, if at all. This definition shall not include commercially available water solutions of ammonia such as glass cleaners.

II. "Clandestine lab site" means any structure or conveyance or location occupied or affected by conditions or chemicals typically associated with the manufacturing of methamphetamine.

III. "Emergency response" includes, but is not limited to, removing and collecting evidence, securing the site, removal, remediation, and hazardous chemical assessment or inspection of the site where the relevant offense or offenses took place, regardless of whether these actions are performed by a public entity, a private contractor paid by a public entity, or the property owner.

IV. "Remediation" means proper cleanup, treatment, or containment of hazardous substances or methamphetamine at or in a clandestine lab site, and may include demolition or disposal of structures or other property.

V. "Removal" means the removal from the clandestine lab site of precursor or waste chemicals, chemical containers, or equipment associated with the manufacture, packaging, or storage of illegal drugs.

Amend RSA 318-D:2, I(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Possesses one or more of the following substances or their salts or isomers, with the intent to manufacture methamphetamine:

- (1) Acetic acid.
- (2) Acetic anhydride.
- (3) Aluminum.
- (4) Ammonium nitrate.
- (5) Anhydrous ammonia.
- (6) Benzaldehyde.
- (7) Benzyl chloride.
- (8) Benzyl cyanide.
- (9) Chloroephedrine.
- (10) Chloropseudoephedrine.
- (11) Elemental phosphorous.
- (12) Ephedrine.
- (13) Ethylamine.
- (14) Formic acid.
- (15) Hydriodic acid.
- (16) Hydrochloric acid.
- (17) Hydrogen.
- (18) Hydrogen peroxide.

- (19) Hypophosphorus acid.
- (20) Iodine.
- (21) Lithium metal.
- (22) Mercuric chloride.
- (23) Methylamine.
- (24) N-methyl formamide.
- (25) Nitroethane.
- (26) Pallodium.
- (27) Perchloric acid.
- (28) Phenylacetic acid.
- (29) Phosphorous pentachloride.
- (30) Platinum.
- (31) Raney nickel.
- (32) Sodium acetate.
- (33) Sodium hydroxide.
- (34) Sodium hypochlorite.
- (35) Sodium hypophosphite.
- (36) Sodium metal.
- (37) Sodium/potassium cyanide.
- (38) Sulfuric acid.
- (39) Thionyl chloride.
- (40) Tincture of iodine.

(c) Possesses one or more of the following organic solvents with the intent to manufacture methamphetamine:

- (1) Acetone.
- (2) Chloroform.
- (3) Cyclohexane.
- (4) Ethanol.
- (5) Ether.
- (6) Light petroleum distillates.
- (7) Methanol.
- (8) Methyl isobutyl ketone.
- (9) Phenyl-2 porpanone.
- (10) Tetrachloroethylene.
- (11) Toluene.

Amend RSA 318-D:2, III as inserted by section 1 of the bill by replacing it with the following:

III. A court may require a person convicted of manufacturing or attempting to manufacture methamphetamine, where the response to the crime involved an emergency response or a hazardous substance cleanup operation, to pay restitution to all public entities, or private entities under contract to a public entity, that participated in the response or the cleanup. The restitution ordered shall cover the reasonable costs of the entities' participation in the response and the reasonable costs of the site cleanup.

Amend RSA 318-D:3, I as inserted by section 1 of the bill by replacing it with the following:

I. A person shall be guilty of an offense if that person recklessly causes serious bodily injury to a law enforcement officer, firefighter, emergency medical technician, ambulance operator, ambulance attendant, or social worker, civilian government employee, or hazardous material contractor acting in his or her official duties, as a result of the hazards posed by the person's conduct in manufacturing or attempting to manufacture methamphetamine. For purposes of this section, a person who takes any substantial step towards the manufacture of methamphetamine acts recklessly.

Amend RSA 318-D:4 as inserted by section 1 by replacing it with the following:

318-D:4 Sale, Transfer, Lease, or Rental of Real Property on Which Methamphetamine Has Been Produced. Any sale, transfer, lease, or rental of real property on which methamphetamine has been produced shall be subject to the provisions of RSA 477:4-g.

Amend RSA 318-D:5, II(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Purchase, possess, transfer, or distribute any amount of anhydrous ammonia, knowing, or having reason to know, that it will be used to unlawfully manufacture a controlled substance or explosive device.

Amend RSA 318-D:5, III as inserted by section 1 of the bill by replacing it with the following:

III. The department of safety shall adopt rules, pursuant to RSA 541-A, in order to implement and enforce the provisions of this section.

Amend the bill by inserting after section 3 the following and renumbering the original section 4 of the bill to read as 5:

4 New Section; Notification Prior to Sale, Transfer, Lease, or Rental of Real Property on Which Methamphetamine Has Been Produced. Amend RSA 477 by inserting after section 4-f the following new section:

477:4-g Notification Prior to Sale, Transfer, Lease, or Rental of Real Property on Which Methamphetamine Has Been Produced.

I. In any purchase and sale agreement, lease agreement, or rental agreement before signing an agreement to sell, transfer, lease, or rent real property for the time period after any conduct prohibited under RSA 318-D has occurred on such property and prior to the determination by the department of environmental services, pursuant to paragraph II, that the property meets remediation cleanup standards:

(a) The seller, transferor, lessor, or owner shall disclose in writing to the buyer, transferee, lessee, or occupant if, to the seller's, transferor's, lessor's or owner's knowledge, methamphetamine production has occurred on the property.

(b) If methamphetamine production has occurred on the property, the disclosure shall include a statement to the buyer, transferee, lessee, or occupant informing the buyer, transferee, lessee, or occupant.

II. The department of environmental services or any licensed environmental or hazardous substances removal specialist shall be responsible for determining that any property on which methamphetamine production has occurred, meets remediation cleanup standards established pursuant to rules adopted by the department under RSA 541-A. Prior to the establishment of rules, the determination shall be based on the best scientific methods available. The determination that the property meets remediation cleanup standards shall be public information available upon request from the department.

SENATOR CLEGG: Thank you, Mr. President. I move House Bill 1667 ought to pass with amendment. The bill establishes penalties for methamphetamine manufacturing and possession of substances with the intent to manufacture methamphetamine. The bill also prohibits certain conduct involving anhydrous ammonia. Methamphetamine is a drug that has been around for a long time, but seeing a resurgence in popularity. Of the seventeen recently uncovered meth labs in New England, twelve of them were located in New Hampshire. Not only is meth highly addictive and inexpensive to produce, but the production or cooks produces toxic waste which is dangerous to those around during the process as

well as to individuals who occupy the premises following the cook. The ability to go after someone who possesses the ingredients required to produce meth would enable law enforcement to better protect our citizens. Many of these chemicals are readily available at drug stores and major retailers and are commonly stored in many of our garages and barns. Law enforcement would have to prove to the court that there was an intent to manufacture methamphetamine before they could arrest you for possession of some of those chemicals. The proposed amendment provides additional protection to first responders and law enforcement officers involved in meth lab busts. The amendment also requires disclosure regarding premises where a meth cook has occurred consistent with current statutory real estate disclosure requirements. And lastly, the amendment requires the Department of Environmental Services or any licensed environmental or hazardous substances removal specialist to determine that any property contaminated by meth production has met the standards which will be established by Administrative Rules. While these rules are in the process of being adopted, the statutory amendment allows the determination of the property being cleaned to be based upon the best scientific methods currently available. The Judiciary Committee asks that you join them in adopting the important protection of our citizens and recommends that this legislation be adopted with amendment. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1720-FN**, relative to notice of parent liability in CHINS proceedings. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Clegg for the committee.

**Senate Judiciary**

**April 11, 2006**

**2006-1748s**

**05/03**

### **Amendment to HB 1720-FN**

Amend the bill by replacing all after the enacting clause with the following:

1 Children in Need of Services; Petition; Notice of Liability. Amend RSA 169-D:5, I to read as follows:

I. A petition alleging a child is in need of services may be filed by a parent, legal guardian or custodian, school official, or law enforcement officer with a judge or clerk of the court in the judicial district in which the child is found or resides. The petition shall be in writing and verified under oath. ***The following notice shall be printed on the front of the petition in red ink in no smaller than 14 point font size: "See back for important information and financial obligations." The back of the petition shall include a notice of liability for parents and other individuals chargeable by law for the child's support and necessities.***

2 New Paragraph; Children In Need of Services; Notice to Parents of Potential Liability. Amend RSA 169-D:5 by inserting after paragraph VI the following new paragraph:

VII. Using local law enforcement personnel, the court shall serve both parents, and any other individual chargeable by law for the child's

support, with a copy of any petition filed under this section. The court shall request the appropriate contact information from the party filing the petition.

3 Children in Need of Services; Summons; Notice of Potential Liability. Amend RSA 169-D:6, III to read as follows:

III. The summons shall state as follows: “**Pursuant to RSA 169-D:29**, parents and other individuals chargeable by law for the child’s support and necessities may be liable for expenses incurred in this proceeding including the costs of certain evaluations and placements. RSA 186-C regarding educationally disabled children grants children and their parents certain rights to services from school districts at public expense and to appeal school district decisions regarding services to be provided.”

4 Effective Date. This act shall take effect 90 days after its passage.

**2006-1748s**

### AMENDED ANALYSIS

This bill establishes additional notice requirements relative to potential liability in CHINS proceedings. The bill also requires the court to provide both parents, as well as any other person who may be liable for expenses incurred on behalf of the child, with a copy of the petition and notice of liability.

SENATOR CLEGG: Thank you, Mr. President. I move House Bill 1720 ought to pass with amendment. The bill sought to require the redesign and reprinting of all documents used by the courts whereby persons may be held liable for reimbursement to the state. These are documents used in such things as abuse and neglect petitions. The Judiciary Committee amendment instead requires that future printings of these documents much have printed on the front in red bold letters no smaller than fourteen point font size the following statement: “See back for important information and financial obligations.” The back of the petition shall include a notice of liability for parents and other individuals chargeable by law for the children’s support and necessities. The bill also amended, in the Judiciary Committee at the request of the judicial branch, to clarify in statute that service of these petitions will continue as is done in current practice – by certified, uniformed police officers. This is what is already occurring and the local police officers do not charge the courts for serving the documents. The Judiciary Committee feels that this simple printing change calling attention to those who receive these documents will help address the problem of not understanding that they will be financially responsible for certain costs. Therefore, the Judiciary Committee recommends that this legislation be adopted with amendment and asks for your support. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1733-FN**, establishing a reporting system for court decisions relative to residential responsibility under parenting plans. Judiciary Committee. Inexpedient to legislate, Vote 3-0. Senator Gottesman for the committee.

SENATOR GOTTESMAN: Thank you, Mr. President. I move House Bill 1733-FN inexpedient to legislate. This bill sought to require the court



to provide the registrar of vital records with information in custody disputes among parents. All of this information is currently available within court records. The Judiciary Committee is not convinced that mandating the courts to provide information for roughly 1,500 additional cases annually would be beneficial. Therefore, the Judiciary Committee recommends that this legislation not be adopted and asks for your support. Thank you.

**Committee report of inexpedient to legislate is adopted.**

**HB 1745-FN**, relative to methamphetamine-related crimes involving children and incapacitated adults. Judiciary Committee. Ought to pass, Vote 4-0. Senator Foster for the committee.

SENATOR FOSTER: Thank you, Mr. President. I move HB 1745-FN ought to pass. This bill is a companion to the just enacted House Bill 1667. In the case of this legislation, it establishes penalties and reporting requirements for methamphetamine related crimes involving children and incapacitated adults. In four recently discovered meth labs discovered in the towns of Warren, New Hampton, Thornton, and Wentworth, children were present in each of these homes. Exposing children or incapacitated adults to meth production would be a separate crime chargeable under this legislation. This bill would hopefully deter those who manufacture meth from doing so with children present. And if they do and are caught, severe penalties in addition to those described earlier can be assessed. This legislation is deliberately worded very broad so that, as other chemicals or ingredients are used in the production of meth, the bill would not need to be amended. The Attorney General's Office, as well as many local law enforcement officials, all support this legislation. Finally, I want to thank Representative Harvey for all of her hard work for bringing this legislation forward. The Judiciary Committee asks for your support. Thank you very much.

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

**HB 1749-FN**, relative to access to motor vehicle records by certain defense contractors. Judiciary Committee. Ought to pass, Vote 4-0. Senator Gottesman for the committee.

SENATOR GOTTESMAN: Thank you, Mr. President. I move House Bill 1749-FN ought to pass. This bill permits certain defense contractors to obtain information identifying the owner of a vehicle that is on or adjacent to the contractor's property within the state of New Hampshire. The United States Department of Defense now requires that electronic warfare contractors be able to secure their facilities. This legislation is narrowly and tightly crafted in order to allow for a waiver to obtain the name and address for individuals who own vehicles in adjacent or their own parking lots. Therefore, the Judiciary Committee recommends that this legislation be adopted and asks your support. Thank you.

**Adopted.**

**Ordered to third reading.**

**HB 689-FN**, relative to the jurisdiction of the New Hampshire commission for human rights over housing discrimination cases. Public and Municipal Affairs Committee. Ought to pass, Vote 3-1. Senator Martel for the committee.

SENATOR MARTEL: Thank you very much, Mr. President. I move House Bill 689 ought to pass. This legislation will amend state laws that address housing discrimination. These changes were recommended by the United States Department of Housing and Urban Development. The changes clarify and strengthen current statute while aligning state law more closely to federal law. Adopting these changes will allow state law to be certified as "substantially equivalent" to the federal fair housing law. Certification will allow the New Hampshire Commission on Human Rights to work with HUD on a work-share agreement. Under this agreement, HUD will increase its funding to the commission. This increase in funding will allow the commission to take on an increased case load and better serve the citizens of New Hampshire. The Public and Municipal Affairs Committee asks for your support on the motion of ought to pass, and I thank you very much, Mr. President.

SENATOR FLANDERS: Thank you, Mr. President. I'm reading the hearing report, and it says, "Who supports the bill". No one signed up in support. "Who opposes the bill". No one showed up in opposition. Senator Roberge opened and recessed the hearing for March 23<sup>rd</sup>. Did you have some people testify on March 23<sup>rd</sup>?

SENATOR MARTEL: No. There was no one except...

SENATOR FLANDERS: Nobody came on the 23<sup>rd</sup> either?

SENATOR MARTEL: Not that I know of. Not that I know of. I don't remember anyone coming on the 23<sup>rd</sup>.

SENATOR FLANDERS: Thank you.

SENATOR HASSAN: Thank you, Mr. President. We did open and recess the hearing, but then we did have a subsequent hearing in which the prime sponsor of the bill spoke, as did the Director of the Human Rights Commission, who spoke in support. No one appeared in opposition.

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

**HB 1174**, requiring that voters who request a secret ballot be present at the town meeting. Public and Municipal Affairs Committee. Ought to pass, Vote 4-0. Senator Roberge for the committee.

SENATOR ROBERGE: Thank you, Mr. President. I move House Bill 1174 ought to pass. This legislation will require a voter requesting a secret ballot be present at the town meeting. Current statute is subject to interpretation and does not specify that the voter who requests a secret ballot must be present at the town meeting. A person requesting a secret ballot should be present and contributing to the town meeting. This is a minor change that will enhance the quality of the town meeting process. The Public and Municipal Affairs Committee asks for your support on motion of ought to pass.

**Adopted.**

**Ordered to third reading.**

**HB 1320**, relative to penalties for planning and zoning violations. Public and Municipal Affairs Committee. Ought to pass, Vote 4-0. Senator Barnes for the committee.

SENATOR BARNES: Thank you, Mr. President. I move House Bill 1320 ought to pass. This legislation will set a fixed dollar amount for the daily

fine for a first planning or zoning violation. Current statute says a person shall be subject to a civil penalty not to exceed \$275 for the first violation. House Bill 1320 reduces judicial discretion and will assist municipalities that incur court costs. Oftentimes, the civil penalties awarded barely cover the municipality's legal costs. Creating a fixed penalties will service as a deterrent and enhance the enforcement of zoning laws in New Hampshire. The Public Affairs Committee requests your support and thank you very much.

**Adopted.**

**Ordered to third reading.**

**HB 1330**, clarifying the laws relative to municipal enrollment in the National Flood Insurance Program and relative to adopting flood insurance rate map amendments. Public and Municipal Affairs Committee. Ought to pass, Vote 4-0. Senator Roberge for the committee.

**SENATOR ROBERGE:** Thank you, Mr. President. I move House Bill 1330 ought to pass. This legislation does three things. It will clarify the authority of municipalities to enroll in the National Flood Insurance Program; allow municipalities to amend the flood insurance rate map by a simple resolution of the local governing body; and ratifies the 194 communities that have been in the program without statutory authority. The floods of 2005 demonstrated the importance of this program. House Bill 1130 will facilitate the enrollment of municipalities not already in the program and allow them to better respond to changes in the flood plain. The Municipal and Public Affairs Committee asks for your support

**Adopted.**

**Ordered to third reading.**

**HB 1394**, relative to determination of value of property in current use. Public and Municipal Affairs Committee. Ought to pass, Vote 4-0. Senator Burling for the committee.

**SENATOR BURLING:** Thank you, Mr. President. I move ought to pass on 1394. This legislation clarifies the fundamental value that is to be used in determining current use valuation for forest and agricultural lands taxed under current use. Current use value will be determined by the income producing capability of the property solely for growing forest or agricultural crops and not by its real estate market value. The Public and Municipal Affairs Committee asks for your support on the motion of ought to pass. Thank you.

**Adopted.**

**Ordered to third reading.**

**HJR 22**, a resolution in recognition and support of New Hampshire's participation in the Experimental Program to Stimulate Competitive Research. Public and Municipal Affairs Committee. Ought to pass, Vote 4-0. Senator Roberge for the committee.

**SENATOR ROBERGE:** Thank you, Mr. President. I move HJR 22 ought to pass. New Hampshire recently became the 27<sup>th</sup> member of the Experimental Program to Stimulate Competitive Research and is pursuing grants from the National Science Foundation. The EPSCoR is a program developed by the National Science Foundation to develop research bases and to improve the quality of science and engineering at colleges and universities in states that do not receive a proportionate share of fed-

eral research money. Passage of this resolution will demonstrate to the National Science Foundation that the New Hampshire General Court supports this program. The Public and Municipal Affairs Committee asks for your support of ought to pass.

**Adopted.**

**Ordered to third reading.**

**HJR 25**, encouraging the United States Congress to propose an amendment to the Constitution concerning eminent domain. Public and Municipal Affairs Committee. Ought to pass, Vote 5-0. Senator Roberge for the committee.

SENATOR ROBERGE: Thank you, Mr. President. I move HJR 25 ought to pass. This House Joint Resolution encourages Congress to propose an amendment to the Constitution so that property cannot be seized by eminent domain except for the public use. The authority for eminent domain must be used carefully and the people's property rights must be protected. The Public and Municipal Affairs Committee asks for your support.

**The question is on the adoption of the committee report of ought to pass.**

**A roll call was requested by Senator Letourneau.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: None.**

**Yeas: 24 - Nays: 0**

**Adopted.**

**Ordered to third reading.**

**HB 347**, relative to indicating citizenship on drivers' licenses and nondrivers' identification cards. Transportation and Interstate Cooperation Committee. Inexpedient to legislate, Vote 4-0. Senator Estabrook for the committee.

SENATOR ESTABROOK: Thank you, Mr. President. I'm pleased to report the Transportation Committee's unanimous support for ITL on this bill. No one came to testify and to support and the testimony in opposition was compelling. There is no upside to this bill, no reason for it to become law. It is not required, under the Federal Real ID Act. A person can get a driver's license in New Hampshire without citizenship if he or she is a legal immigrant. If an individual has a New Hampshire driver's license, they have proven they are here legally. Committee members agreed with testimony warning of mistreatment of legal immigrants. We rejected the idea of a scarlet letter being attached to a New Hampshire driver's license. We found residence in the constitutional requirement of equal protection for all people without a compelling reason and since we found no reason, we must reject this bill. The committee urges your support of ITL.

**MOTION TO TABLE**

Senator Clegg moved to have HB 347 laid on the table.

**Adopted.**

**LAIID ON THE TABLE**

**HB 347**, relative to indicating citizenship on drivers' licenses and non-drivers' identification cards.

**HB 1155**, creating a violation for failure to pay a highway toll. Transportation and Interstate Cooperation Committee. Ought to pass, Vote 4-0. Senator Flanders for the committee.

SENATOR FLANDERS: Thank you, Mr. President. When we put the EZ Pass into effect, somehow we failed to put a penalty against going through it and not paying a toll. Basically this bill makes it a failure to pay a highway toll a violation of vehicles that pass through a toll facility or any lane of toll facilities that is not equipped with an electronic toll monitoring system, and clarifies the administrative procedure for toll evasion applies to all the vehicles that evade a toll. Presently, statistically, we had the person there, that in order to have a violation of going through EZ Pass, they are charging them with red light violation. So this fixes that problem and puts the RSA back to where it was prior to EZ Pass. Thank you.

**Adopted.**

**Ordered to third reading.**

**HB 1215**, relative to the winter maintenance of Diamond Pond Road in the towns of Colebrook and Stewartstown. Transportation and Interstate Cooperation Committee. Ought to pass, Vote 5-0. Senator Flanders for the committee.

SENATOR FLANDERS: Thank you, Mr. President. This bill increases the winter maintenance payment to the towns of Colebrook, New Hampshire and Stewartstown, New Hampshire for maintaining the state road to Diamond Pond from \$1,500 to \$2,500 per mile and provides for future payments to be 102 percent of the previous biennium's payment. The payment was last increased in 1985. Both the towns of Colebrook and Stewartstown support this. Please join the Transportation Committee and vote ought to pass. This is a road that goes up into Diamond Pond where there is a state park and the state does not want to plow this road because it is so far out. They prefer not to go out there and plow it. So they contacted Colebrook and Stewartstown, which is in both towns, to plow. The town is asking for an increase per mile because of the costs the trucks and plowing and so forth, and the Transportation Committee voted unanimous that this should pass. Thank you.

**Adopted.**

**Ordered to third reading.**

**HB 1235-FN**, establishing a criminal penalty for driving a commercial motor vehicle while violating an out-of-service order. Transportation and Interstate Cooperation Committee. Inexpedient to legislate, Vote 4-0. Senator Morse for the committee.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 1235 inexpedient to legislate. The committee feels that a misdemeanor is an inappropriate penalty for any person who drives a commercial motor

vehicle or any employer who requires a commercial motor vehicle to be driven in a violation of a properly issued out-of-service order. Please join the Transportation Committee and vote inexpedient to legislate.

**Committee report of inexpedient to legislate is adopted.**

**HB 1307**, relative to application requirements for motor vehicle recycling yard licenses. Transportation and Interstate Cooperation Committee. Ought to pass, Vote 4-0. Senator Flanders for the committee.

SENATOR FLANDERS: Thank you, Mr. President. I move House Bill 1307 ought to pass. This is a bill that was recommended by the people who run these yards, and I thought that was a great part on them to come forward and ask for legislation for recycling yard licenses, and a motor vehicle junkyard license, or a license renewal, to include certification of compliance with the best management practices established by the Department of Environmental Services. By requiring the applicants to comply with the Department's best management practices, this will help protect groundwater, soil, and air quality by reinforcing the need to operate motor vehicle salvage yards in a reasonable manner. Please support the Transportation Committee and vote ought to pass on House Bill 1307.

**Adopted.**

**Ordered to third reading.**

### **MOTION OF RECONSIDERATION**

Senator Boyce, having voted with the prevailing side, moved reconsideration of **HB 1155**, creating a violation for failure to pay a highway toll, whereby it was ordered to third reading.

SENATOR BOYCE: Mr. President, I'd like to request reconsideration on House Bill 1155 and I'd like to speak to my motion if I could? The toll bill that we just passed.

**Adopted.**

**HB 1155**, creating a violation for failure to pay a highway toll.

SENATOR BOYCE: I would ask you to... Can I do a Rule #44 real quick and tell them why? I'll be real quick. This includes the word "not" in front of "electronic toll lanes". What the intention was, if you went through the electronic EZ Pass lane without paying a toll, it should be a violation. This says that if you go through the other lanes without paying it's a toll...it's a violation, but not the EZ Pass lanes. So we need to get an amendment that takes out the word "not".

### **MOTION TO TABLE**

Senator Flanders moved to have HB 1155 laid on the table.

**Adopted.**

### **LAIID ON THE TABLE**

**HB 1155**, creating a violation for failure to pay a highway toll.

**HB 1417-FN**, establishing gold star number plates. Transportation and Interstate Cooperation Committee. Interim Study, Vote 3-1. Senator Flanders for the committee.

SENATOR FLANDERS: Thank you, Mr. President. I move House Bill 1417-FN to interim study. This bill, as originally written, would have allowed many family members to display the gold star mothers' plate. We did not **TAPE INAUDIBLE** feel that that was proper, and we've

asked this to be referred to interim study so that we can iron out the situation and come back with a bill next year that would properly appropriate where the Gold Star Mother Plate and which car it should be on. I ask you to support interim study. Thank you.

SENATOR LETOURNEAU: Yes. I would ask the body to turn down the interim study motion so that I can offer an amendment.

**Motion failed.**

Senator Letourneau moved ought to pass.

Senator Letourneau offered a floor amendment.

Sen. Gallus, Dist. 1  
 Sen. Johnson, Dist. 2  
 Sen. Kenney, Dist. 3  
 Sen. Boyce, Dist. 4  
 Sen. Green, Dist. 6  
 Sen. Flanders, Dist. 7  
 Sen. Odell, Dist. 8  
 Sen. Roberge, Dist. 9  
 Sen. Eaton, Dist. 10  
 Sen. Bragdon, Dist. 11  
 Sen. Clegg, Dist. 14  
 Sen. Gatsas, Dist. 16  
 Sen. Barnes, Dist. 17  
 Sen. Martel, Dist. 18  
 Sen. Letourneau, Dist. 19  
 Sen. Morse, Dist. 22

**April 20, 2006**

**2006-1955s**

**03/01**

**Floor Amendment to HB 1417-FN**

Amend the title of the bill by replacing it with the following:

AN ACT establishing gold star number plates and relative to special number plates for veterans.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Gold Star Number Plates. Amend RSA 261 by inserting after section 87-b the following new section:

261:87-c Gold Star Number Plates.

I. The department shall furnish one set of special number plates, designed by the director with the approval of the commissioner, for one motor vehicle owned by a mother of a person killed while on duty in the United States armed forces. These gold star number plates shall be issued upon payment of the regular registration and number plate fees.

II. For purposes of this section, a motor vehicle is owned by a mother of a person killed while on duty in the United States armed forces if the mother of a person killed while on duty in the United States armed forces is the motor vehicle's owner under RSA 259:72, I, or if the legal ownership of the motor vehicle is held by a trust established by the mother of a person killed while on duty in the United States armed forces and the mother of a person killed while on duty in the United States armed forces has use of the motor vehicle or the motor vehicle is used for the transportation of the mother of a person killed while on duty in the United States armed forces. The director shall establish the docu-

mentation required for a motor vehicle held in trust to be eligible for plates under this section. The director shall not issue more than one set of plates under this section to any trust. A trustee of the trust or the administrator of the estate may be fined up to \$500 for failing to return within 60 days of the death of the mother of a person killed while on duty in the United States armed forces any plates issued under this section for a motor vehicle held in trust.

2 Special Number Plates for Veterans; Eligibility. Amend RSA 261:87-b to read as follows:

261:87-b Special Number Plates for Veterans. The director is hereby authorized to issue special number plates to be used on motor vehicles owned by veterans of the United States armed services, in lieu of other number plates. The design of these special plates shall be determined by the commissioner, and shall be distinct from the design or designs of those plates issued under RSA 261:86. Such plates shall be issued only **to veterans as defined in RSA 21:50, I(a)** upon application, proof of ~~[honorable discharge from the armed services as deemed appropriate by the director]~~ **veteran status in a form authorized by RSA 21:50, I(b)**, and payment of a one time \$25 fee to recover production and administrative costs that shall be in addition to the regular motor vehicle registration fee and any other number plate fees otherwise required. The director shall also issue such plates to any person providing proof of honorable discharge from the armed services of any nation allied with the United States during World War II and proof of such person's service during World War II. Renewals of such special number plates shall be charged the fee assessed for standard motor vehicles as prescribed under RSA 261:141. The plates furnished pursuant to this section are non-transferable and shall expire upon the death of the veteran.

3 Effective Date. This act shall take effect 60 days after its passage.

## 2006-1955s

### AMENDED ANALYSIS

This bill establishes gold star number plates. This bill also clarifies the eligibility requirements for special number plates for veterans.

SENATOR LETOURNEAU: I would like to make a motion on ought to pass as amended and offer amendment 1955s.

SENATOR GATSAS (In the Chair): Floor amendment 1955 has been proposed. Is there any discussion on the amendment? Senator Letourneau will speak to his amendment as it's being passed out. Thank you.

SENATOR LETOURNEAU: Thank you, Mr. President. I move amendment 1955s. This amendment will establish a gold star number plate. This bill would allow mothers of a person killed while on duty in the United States Armed Force to receive one set of special license plates, of motor vehicle license plates. The gold star number plates would be issued upon the payment of regular registration of number plate fees. The committee amendment clarifies the requirements for special number plates for veterans.

SENATOR FLANDERS: Mr. President, I just would like to report that there is a definition and I'm sorry I don't remember, to what a "gold star mother" is. I think it is by federal statute, and so there is no question once we pass this, as to what a "gold star mother" is. Thank you.

SENATOR GOTTESMAN: Yes. Thank you, Mr. President. In reading this sponsor list, I'm very impressed by the fact that sixteen Republican Senators all signed on and this is the first I've known about it. I would just like



to say for the record that it would have been very nice to have been included, and I believe I would have, and others would have liked to have been included. Thank you, Mr. President.

SENATOR BARNES: Thank you, Mr. President. I'll take the full responsibility for that, Senator Gottesman, and I apologize. And I will ask for a roll call so you can all be on it. And it's my fault that you eight Democrats weren't asked to be on it. I'll take the full blame and responsibility for that.

SENATOR GATSAS (In the Chair): Do I have a motion?

SENATOR FLANDERS: Mr. President, are you in the voting mode?

SENATOR GATSAS (In the Chair): No, the question is on the adoption of the floor amendment 1955.

SENATOR FLANDERS: May I. I don't know if this is proper. Can we table this and have a new amendment made with all the names on it?

SENATOR GOTTESMAN: I will accept Senator Barnes' comments in the spirit in which they're given. I think that everyone here knows that we would have been on this had we'd been asked and I think that a roll call will reflect that.

SENATOR FLANDERS: Okay. Thank you.

SENATOR BURLING: Thank you. I don't often do this, but I will just say that, on this particular bill, which had take so much focused effort by the members of the committee on both sides of the party line, and I just want everybody to know that I expended a certain amount of my flesh the other day, when a House member who disagreed completely with the Senate position, went up one side of me and down the other, and threatened me and told me that this, that and the other would be happening to my bills if we stuck to the Senate position. This is the Senate position and every Senator should be on it.

SENATOR BARNES: Yeah, thank you, Mr. President. I agree. On that first bill that we sent out of here, it was 24-0. Let's cut the...let's bail me out of this mistake that I made and let's allow another amendment to be put together and have all twenty-four names on there. And Senator Burling, I'm sorry they went up and down you, and I also took a little bit of flack for it. But you know something? I'm still standing and so are you.

### **MOTION TO TABLE**

Senator Morse moved to have HB 1417-FN laid on the table.

**Adopted.**

### **LAI D ON THE TABLE**

**HB 1417-FN**, establishing gold star number plates.

**HB 1463-FN**, relative to boating and water safety. Transportation and Interstate Cooperation Committee. Ought to pass with amendment, Vote 4-0. Senator Letourneau for the committee.

**Sen. Letourneau, Dist. 19**

**April 10, 2006**

**2006-1713s**

**03/09**

### **Amendment to HB 1463-FN**

Amend the bill by deleting sections 1-2 and renumbering the original sections 3-6 to read as 1-4, respectively.

Amend the bill by replacing all after section 3 with the following:

4 Failure to Disperse; Participation in a Water Event; Penalties. Amend RSA 270-D by inserting after section 4 the following new section:

270-D:4-a Participation in Water Event; Failure to Disperse; Penalties. Any person who participates in a water event for which a permit has not been issued as required by RSA 270-D:4, shall be guilty of a violation and fined not less than \$100. Any person who continues to participate in or refuses to disperse from the location of such an event after being ordered by a marine patrol officer or other local, county, or state law enforcement officer to cease participation and disperse shall be guilty of a misdemeanor.

5 Safe Boater Education; Temporary Certificate. Amend RSA 270-D:14 to read as follows:

270-D:14 Temporary Certificate. The commissioner, or designee, shall issue a temporary certificate of safe boating education to a person 16 years of age or older who passes a temporary safe boater examination administered by the department or its agents and approved by the commissioner. The temporary certificate of safe boater education shall be valid for up to 14 days and shall entitle the holder only to operate a vessel on the public waters of New Hampshire. ***No person shall receive more than one temporary certificate of safe boating education in any calendar year.*** Any dealer or renter of boats or employee thereof, who has passed the boating safety education course as provided in RSA 270-D:13, I(a) and is approved by the commissioner, may administer the temporary safety examination and issue a temporary certificate. ***If the commissioner finds that a person administering a temporary safe boater examination has assisted the person taking the examination, the commissioner shall permanently revoke the authority of the administrator to issue certificates and administer examinations.***

6 Safe Boater Education; Fees; Temporary Certificate. Amend RSA 270-D:17, I(b) to read as follows:

(b) The fee for a temporary certificate shall ~~[not exceed \$5]~~ **be \$10.**

7 Effective Date.

I. Sections 1-3 of this act shall take effect January 1, 2007.

II. The remainder of this act shall take effect upon its passage.

**2006-1713s**

### AMENDED ANALYSIS

This bill:

I. Prohibits the display of shore lights that resemble navigation lights.

II. Establishes examination requirements for safe boater education courses.

III. Prohibits participating in a prohibited water event.

IV. Prohibits receiving more than one temporary certificate of safe boating education in any calendar year and authorizes the commissioner of the department of safety to revoke the authority of a person administering a temporary safe boater examination found to have assisted the person taking the examination.

V. Increases the fee for a temporary certificate of safe boating education.

SENATOR LETOURNEAU: Which bill are we on? Thank you, Mr. President. As soon as I find my remarks. Thank you, Mr. President. I move House Bill 1463-FN ought to pass with amendment. This bill is the result of last summer's study committee and has several elements designed to improve boating and water safety. This amendment from the committee prohibits the display of shore lights that resemble navigation lights, establishes an exam requirement for safe boater education courses,

prohibits practicing in a prohibited water event, and prohibits receiving more than one temporary certificate in any calendar year, and increases the fee for a temporary certificate of boater safety education. Please support the Transportation Committee and vote ought to pass as amended on House Bill 1463-FN. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1536**, relative to bonds required from persons excavating or disturbing certain highways. Transportation and Interstate Cooperation Committee. Ought to pass, Vote 4-0. Senator Burling for the committee.

SENATOR BURLING: Thank you, Mr. President. I move House Bill 1536 ought to pass. This bill requires persons who excavate or disturb the shoulders, ditches, embankments, or surface of highways to post a bond to return the highway to its prior condition. This bill not only addresses what forms the bonds may take, but it makes clear the terminology and methodology for towns to give money back from the bonds when the work is completed. Please support the Transportation Committee and vote ought to pass on House Bill 1536. Thank you, Mr. President.

**Adopted.**

**Ordered to third reading.**

**HB 1624-FN**, relative to boat noise. Transportation and Interstate Cooperation Committee. Ought to pass with amendment, Vote 4-0. Senator Letourneau for the committee.

**Transportation and Interstate Cooperation**

**April 12, 2006**

**2006-1775s**

**03/04**

### **Amendment to HB 1624-FN**

Amend the bill by replacing section 2 with the following:

2 Decibel Limits on Noise. Amend RSA 270:37 to read as follows:

270:37 Decibel Limits on Noise.

I. ~~[No person may operate any boat powered by a marine engine manufactured before January 1, 1977, in or upon the waters of this state which is capable of being operated in a manner which exceeds a noise level of 86 decibels on the "A" scale measured at a distance of 50 feet from the boat.~~

H: No person may operate, sell, or offer for sale any marine engine ~~[for use in or upon the waters of this state]~~ which is capable of being operated in a manner which exceeds the following noise levels measured ~~[at a distance of 50 feet from the boat with which the engine is tested]~~ under *any testing procedure established pursuant to rules adopted under RSA 270:39*:

(a) For a marine engine manufactured in or before ~~[1977]~~ **1990**, a noise level of ~~[86]~~ **90** decibels ~~[on the "A" scale]~~ *when subjected to stationary testing*.

(b) ~~[For a marine engine manufactured between January 1, 1978, and December 31, 1981, a noise level of 84 decibels on the "A" scale.~~

(c) For a marine engine manufactured after December 31, ~~[1981]~~ **1990**, a noise level of ~~[82]~~ **88** decibels ~~[on the "A" scale]~~ *when subjected to stationary testing*.

*(c) For a marine engine manufactured in or before 1990, a noise level of 84 decibels on the "A" scale, measured at 50 feet.*

*(d) For a marine engine manufactured after December 31, 1990, a noise level of 82 decibels on the "A" scale, measured at 50 feet.*

~~[H.] Noise levels in decibels shall be measured according to procedures established pursuant to rules adopted under RSA 270:39.~~

~~[IV.] II. The director or [his] *the director's* agent may order the operator or owner of any boat which he [reasonably believes] *or she has articulable suspicion to believe* is capable of being operated in a manner which exceeds the decibel limits contained in this section to subject [his] *the* boat to *one or more* noise level testing procedures as provided in this subdivision *or to inspection of the engine and mechanical systems for violations of this section or RSA 270:25.*~~

~~[V.] III. A boat owner or operator shall submit a boat which is the subject of an order by the director or [his] *the director's* agent pursuant to RSA 270:37, [IV] II to noise level testing by the director or [his] *the director's* agent [within 7 days of such an order] *immediately or at the time and location designated by the director or the director's agent.* No person shall operate the boat after [this 7-day period has expired] *the time designated* until it is subjected to such noise level testing *or engine and mechanical system inspection.*~~

~~[VI.] IV. The director or [his] *the director's* agent may prohibit the operator or owner of any boat which fails a noise level testing procedure from operating the boat until the boat successfully passes the procedure. No person shall operate a boat contrary to such an order of the director.~~

~~[VII.] V. Pursuant to the penalties imposed under RSA 270:41-a, any person convicted of violating this section shall be fined not less than [\$100] *\$250.* No portion of any fine imposed under this section shall be suspended or reduced by the court.~~

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 5:

4 Certification of Marine Engines; Reference Changed. Amend RSA 270:38 to read as follows:

270:38 Certification of Marine Engines. Any marine engine manufactured after December 31, 1976 and offered for sale in this state shall be certified to the director as having been tested and found not to exceed the noise levels prescribed in RSA 270:37, [H] I. An outboard motor shall be certified by the motor manufacturer. Any other marine engine shall be certified by the boat manufacturer if it is offered for sale in combination with a boat or by the engine manufacturer if it is not offered for sale in combination with a boat.

SENATOR LETOURNEAU: Thank you, Mr. President. I move House Bill 1624-FN ought to pass with amendment. This bill modifies the boat noise limits. Current testing procedures are not working as boaters are able to make slight modifications to trick marine patrol during testing and then remove these modifications once they have passed. This bill adopts the SAE test and will make the testing more efficient. Please support the Transportation Committee and vote ought to pass as amended. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Referred to the Finance Committee (Rule #26).**

**HB 1738-FN**, prohibiting the use of surveillance devices to identify motor vehicles. Transportation and Interstate Cooperation Committee. Ought to pass, Vote 3-0. Senator Estabrook for the committee.

**SENATOR ESTABROOK:** Thank you, Mr. President. I move HB 1738-FN ought to pass. This bill prohibits the use of surveillance devices on New Hampshire highways unless authorized by statute or under certain other circumstances. HB 1738-FN balances the need to prevent these devices from tracking people's movements, while at the same time allowing video to be used by traffic engineers, police officers and others in determining the causes of traffic jams and collisions. Please support the Transportation Committee and vote ought to pass. Thank you.

**Adopted.**

**Ordered to third reading.**

**HB 1612-FN**, relative to the use of lottery revenue as purses for horse and dog racing. Ways and Means Committee. Inexpedient to legislate, Vote 3-1. Senator D'Allesandro for the committee.

**Recess.**

**Out of recess.**

**SENATOR D'ALLESANDRO:** Thank you, Mr. President. I move House Bill 1612 inexpedient to legislate. This bill would have eliminated an appropriation from the legislature to the racetracks. This appropriation is part of a long-standing agreement between the Lottery Commission and the racetracks that dates back to 1964. Remember in 1964, we had the first Sweepstake Race in New Hampshire, after Governor King had signed the Sweepstakes Bill, which initiated the first lottery...the first legal lottery in the United States since the late 1800s. The money that is appropriated goes to supplement purses. It does not go to the race-track; it goes to the purses. The purses go to the entrants into the race. The larger purse you have, the better quality race you get, which produces a greater interest. All of this enhances sales. And, by the way, the lottery is having its most successful season this year. This is a mutually beneficial situation and it doesn't make any sense for the state to eliminate the appropriation. The Ways and Means Committee asks for your support for the motion of inexpedient to legislate. Thank you, Mr. President.

**SENATOR ROBERGE:** Mr. President. I would ask to overturn the committee report, to ought to pass, and I'd like to speak to my motion.

**SENATOR GATSAS (In the Chair):** Speak to the motion. We first need to vote down the inexpedient. Okay?

**The question is on the committee report of inexpedient to legislate.**

**A roll call was requested by Senator Barnes.**

**Seconded by Senator Kenney.**

**The following Senators voted Yes:** Gallus, Johnson, Kenney, Burling, Green, Eaton, Bragdon, Martel, Letourneau, D'Allesandro, Morse, Hassan.

**The following Senators voted No:** Boyce, Flanders, Odell, Roberge, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Estabrook, Fuller Clark.

**Yeas: 12 - Nays: 12**

**Motion failed.**

Senator Roberge moved ought to pass.

SENATOR ROBERGE: I move ought to pass.

SENATOR GATSAS (In the Chair): Ought to pass and you'd like to speak to that motion?

SENATOR ROBERGE: I would like to speak to my motion. Mr. President and members of the Senate, right now \$325,000 in public money is being used to subsidize a private business, private businesses. The bill before us would eliminate this subsidy and return the money to our public schools. Other speakers are going to talk to you about all sorts of unrelated issues. They're going to try to tell you this is about a lottery, about animal rights, or horse racing or preserving open spaces or even about fairness. We could talk about this bill for a long time, but the fact remains it's a very simple bill with a very simple choice. We're either going to continue to use state money to subsidize private businesses or instead, we're going to vote to return that money to private schools...to public schools. The subsidy was created decades ago when the racetrack owners cut a deal with lawmakers. Some say that, in the interest of fairness, this deal should continue. I want to remind you that we have the right as a Senate to change our minds. In fact, when our predecessors made these glaring mistakes, as they did in this case, we have an obligation to fix those mistakes. We started to fix this mistake a few years ago when we passed Article 6-B of the Constitution, which requires that lottery proceeds be used to fund our public schools. Today, we are finishing that job. After Article 6-B passed, racetracks argued that their subsidy should continue because of the necessary cost of administration. We are either going to use state money to subsidize private businesses or instead, fund our public schools. We are either going to follow the Constitution or we're going to ignore it. We are either going to make the right decision and eliminate this wasteful subsidy or we're going to abide by decades old backroom deal. Please cast your vote today for public schools and vote with me to end this wasteful subsidy. Thank you.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I rise to speak against the ought to pass. As I mentioned in my remarks, when John King signed the sweepstakes bill, we created the reincarnation of the lottery in New Hampshire. Since that period in time, hundreds of millions of dollars have come from the lottery and gone into education. The lottery was tied into a sweepstakes race. That race was broadcast on the American Broadcasting Company's Wide World of Sports. It had nationwide publicity. Drew a tremendous crowd at Rockingham Park, and initiated something that has been very effective for New Hampshire over decades. Second situation is, we have a lot of people that work at these race tracks. Good, hard working people that earn their living at these racetracks. Day in and day out, they go there to earn a living so that they can bring food, etc. home to their families. By withdrawing something that enhances the activity at that venue, we are in essence, saying to those people, watch out. Watch out for your livelihood. For example, the town of Salem gets almost \$800,000 a year in real estate tax. \$800,000 a year. They bring to the state of New Hampshire in revenues, based on the Pari-Mutuel tax, millions of dollars each year. So when you talk about an investment of \$165,000 in one venue, and you're getting back millions of dollars in return, that's not a bad investment. The cost/benefit ratio is very positive in terms of the \$165,000 that we invest. So out of that investment we get jobs, we get tax revenue, we have a tourist attraction in the state of New Hampshire, and we sell lottery tickets there. And

believe it or not, at the venues, they are among the largest purveyors of the lottery tickets in the state. So there is something in return for this. The investment, \$365,000 when you include the horse track, the race-tracks, and the Rochester Fair. Now what if these people don't participate in the sale of tickets? That hurts the lottery. That hurts education because that revenue is not forthcoming. So when we say we're subsidizing businesses, we're subsidizing ourselves, because we get the money. This year, the lottery will produce about \$80 million for education. By Constitution, that money goes for education. That's \$80 million. That's a high. We're on a high. Eighty-million. Now grant it, our racing revenues are not what they were in the past. But is this the way to enhance that situation to diminish the attraction that they have for the sweepstake race? That's the best purse race that they offer. That brings people to the venue. It brings quality racing stock to the venue. It enhances the venue. I mean that's why we have done it. And to say that the we have made mistakes since 1963, if you look at the money that's been raised by the lottery since 1963 and say it's been a mistake, we're in trouble. How can we say that? Now you might have a difference of opinion, but this was the way the lottery was to be conducted, and that's how the lottery passed the legislature. That's how the races were instituted. That's how the money was pervade. We've done it since 1963. It's been a positive for us right along the way. Right along the way, it's been a positive. People in Salem are employed. People in Seabrook are employed. People over in Hinsdale are employed. We lost a track in Belmont, but they're looking for another license. We've had some employees there. So it has been a positive, and it has not hurt education. It has not hurt education. When you say that \$80 million from the lottery's going into education this year, that's a fairly sizeable amount of money. That's a fairly sizeable amount of money. So, my colleagues, I say look at what we're doing. Look at what we're doing. We make some good decisions in this chamber. We make some decisions that aren't so good. I don't think that this one is a very good decision. Thank you, Mr. President.

SENATOR GREEN: Thank you, Mr. President. I would look at this strictly from my point of view as a financial decision. The question is, are we giving money to an activity that is going to return a great deal of funding to the state of New Hampshire? Those of us who have facilities that are affected by this think it's a great investment. But I don't think, whether you have a facility in your district or not, it's an investment that we put in the budget, just like we put advertising in the budget. In other words, we promote the lottery. That's what we do. Now there are other activities in the state that get money to promote the lottery and the lottery spends a lot of money to advertise. The lottery also knows, by having these machines at these tracks, that there is a large group of people who will take advantage of those machines at those tracks. So I don't understand exactly what we're doing here. I think there's two agendas going on here. One is the agenda about revenues and the affect of revenues. And the other agenda, which is a legitimate agenda, is caring, concerns about animals, and that's a legitimate concern. I happen to have that concern, but I don't think what we're doing here, is going to affect the issue of animals as much as it's going to affect the state's source of revenue, for education. So I think what we're doing is, is we're cutting off our nose to spite our face so to speak. It may be a good intention, but the end result is that we're all going to pay the price somewhere else. And you are going to have less sales in lottery. And you're going to have less revenue in lottery. And I think if you look at this thing care-

fully, and think about it, we're making a major mistake if we do not continue the practice of advertising and promoting the sale of lottery tickets at the racetracks. I just think that we've got to look at this from that point of view. I ask you to please not support the ought to pass and we'll see what we're going to do from there. Thank you.

SENATOR BARNES: I have questions for Senator D'Allesandro and Senator Green. Seeing Senator Green was the last speaker, I'd like to start with him if I could? Thank you, Senator Green. How many days of racing do you have at the Rochester racetrack?

SENATOR GREEN: I believe that we have a ten-day fair; probably eight of them are racing.

SENATOR BARNES: What kind of attendance do you have there?

SENATOR GREEN: I don't know what the race attendance is. I can't tell you. I want you to know, Senator, I do not go to the track racing anymore.

SENATOR BARNES: I'm not asking you whether you go to the track or not.

SENATOR GREEN: I don't know. I don't know the answer to your question.

SENATOR BARNES: My last question for you, Senator, is the Rochester racetrack for those ten days or the eight-day meet, sell lottery tickets?

SENATOR GREEN: Yes.

SENATOR BARNES: Do you know what the revenues on those lottery tickets happen to be?

SENATOR GREEN: No, I do not. I could not tell you.

SENATOR BARNES: Thank you very much, Senator. Senator D'Allesandro, would you be willing to answer some questions for me?

SENATOR D'ALLESANDRO: Absolutely, Senator Barnes. You're questioning is something I relish.

SENATOR BARNES: You always have. Thank you.

SENATOR D'ALLESANDRO: Thank you.

SENATOR BARNES: You've regained your breath so it's time to ask you the question.

SENATOR D'ALLESANDRO: Great.

SENATOR BARNES: I know you're very passionate about this subject. I've heard you over the last few years and I understand where you're coming from.

SENATOR D'ALLESANDRO: Yes.

SENATOR BARNES: My question to you is, at 2005, do you have any idea what the attendance was at the tracks that have these machines at them?

SENATOR D'ALLESANDRO: Do I have any idea what the aggregate attendance was?

SENATOR BARNES: The aggregate attendance was for those three tracks that were open all year. I need to have a number. Do you have that?

SENATOR D'ALLESANDRO: I do not have it, but I'll get it for you.

SENATOR BARNES: Well, I have a number for you, Senator D'Allesandro, if I may?



SENATOR D'ALLESANDRO: You may.

SENATOR BARNES: Would you believe that we have a racetrack in Loudon that I don't believe we subsidize, because I don't have machines up there, and for the two events, the main events, I'm talking about the main events, the two big ones that are on television, national television, draw roughly 220,000 people, and we don't subsidize that track at all. And there are other mini-races as they go on, so it's probably close to 300,000 people that come through those tracks each summer. So I don't understand why we should be doing this at those tracks, and not doing it for something that draws probably over 300,000 people.

SENATOR D'ALLESANDRO: Well, that's a wonderful question. Thank you very much for that, Senator Barnes.

SENATOR BARNES: You're welcome.

SENATOR D'ALLESANDRO: But I think that in order, we don't subsidize them by giving them money for their purses. But we change the routing of the highway. We have more state police on duty than we have at any time, at any time during the year other than the motorcycle races. As I say, we re-route the traffic on our major thoroughfares. That's our interstate highways as well as 106. We completely change the traffic pattern. We have, as I've said, not only local constabulary, but our state troopers there. And of course, we make every accommodation because we recognize the value, the value of this event, just as we recognize the value of the sweepstakes event. So I think your analogy is wonderful, it's well put, and it makes a great deal of sense. We do what we have to do to do the right thing.

SENATOR BARNES: Senator D'Allesandro, thank you so much for your answer.

SENATOR D'ALLESANDRO: It's always a pleasure.

SENATOR CLEGG: Thank you, Mr. President. I rise in favor of the ought to pass. I used to be on the other side. But you know, when I hear that \$325,000 is all about jobs and it's not about the horseracing, and we have to have it because of the taxes. But you know what? When you took \$3 million from Londonderry's education payment, where was the pounding on the desk? The raising of the voices? I didn't hear it. \$325,000 would be great. To the town of Londonderry, Hudson, Auburn, they'll split it. They're not going to gamble with it, they're actually going to teach children with it. Jobs? Yeah, probably, maybe we can have another teacher. Oh yeah, but it's not about dogs and horses, is it? In 1963, when we made this, dogs and horses were in their heyday. It was all about horse racing and dog racing. Guess what? Nobody goes anymore. They go down to Fox Woods, they play Texas Holdem, and what about the taxes that they pay in Londonderry? Oh wait, they don't have any horse racing or dog racing. It's ridiculous. We give education money to the gambling industry. At the same time, you're pulling education money away from the kids who need it. And both of those plans, regardless of which one passed, took money from Londonderry, from Hudson, and from Auburn. Both the plans short-changed my district. So if you've got \$325,000 hanging around, don't gamble with it, send it to my district and we'll actually use it to educate our kids. Thank you.

SENATOR HASSAN: Thank you, Mr. President. I rise in opposition to the ought to pass. And just in response to my friend, the last speaker, I represent the town of Seabrook, along with nine other towns. I did not

vote for the education plan that removed the money from Londonderry or any of his districts. And, in fact, that plan removed a great deal of money from the town of Seabrook, which needs education aid significantly. In fact, at the end of the transition period, under the current education funding plan, Seabrook will get no state aid. So as far as I am concerned, the sweepstakes money that leverages a sweepstake race at an important employer and an important property taxpayer in the town of Seabrook is an excellent investment because Seabrook right now cannot rely on the state of New Hampshire to help it with its education funding. Thank you.

SENATOR EATON: Thank you. I rise in opposition to this ought to pass also. I think that, if this bill passes, in the long run, we'll have less money to send around to Londonderry and the rest of the schools. A major amount of advertising is done by the racetracks. That advertising is done out-of-state. These...if this does not happen, we will not have the people coming into the state, which not only will wager, buy lottery tickets, but they also stop at our restaurants. It's a domino affect. They stop at our restaurants, they'll stop at the Wal-Mart's, they go to Sears, because we are a tax free state. And they can't wait to get up here and not have to pay a sales tax. I think this is a very small amount to put in for the amount of money that we receive back as the benefits that Senator D'Allesandro and Senator Green spoke of.

SENATOR LARSEN: I rise to support the ought to pass motion, and to raise a point which I don't think has been raised, which is one where I've been consistent over the years. Which is basically that the Constitution says "all monies received from the state-run lottery, and all interest received on such monies, shall after, deducting the necessary costs of administration, be appropriated and used exclusively for the school districts of the state." I have no problem if we talked in our budget discussions of funding marketing for the tracks and that would be appropriate. I do have trouble when we are asked to somehow wink and nod about Article 6-B of the Constitution. I have to say, more often than not, when I'm out campaigning and talking with people, one of the most frequently asked questions to me is, "Why is it that all of our lottery monies don't go to education?" And I frequently have to explain the issue of historical purses. I think we can resolve this by having a discussion of should...should this money be used for marketing? What brings us revenue? Put it in the budget, but not out of the education trust fund.

SENATOR MORSE: Thank you, Mr. President. I would just like to make it clear that it is in the budget. I would like to make it clear that Salem has just about the same amount of students as Londonderry, and on education funding, we only get \$4.5 million and they get \$11 in the budget that we passed. I know they were disappointed when we cut them down from \$13, but I know in June, we're probably going to resolve that and bring us all back here this summer. Having said that, we never talk about the BET in Salem, we don't talk about the business profits tax, we don't talk about the liquor, all the things that we're at the top of, in a town that has \$4 billion worth of assets, and doesn't benefit as much as you do up here at the state. And quite frankly, on this issue, I didn't discuss it in caucus. They were looking around the corners for me to open my mouth. It is a matter of you just keep beating on it and it will go away. Just like the values in the state of New Hampshire will keep going away. We can debate everything all day long up here, but the fact is, if you wear them down hard enough, contractors will have stepped...that you're

going to make 'em make contracts. Because why? Because we beat them down. They get to the point where let's not debate it any more. That's how I felt earlier this morning. I just had had enough. I mean, to argue over \$325,000, I mean, let's give it up. I'll give you back my share of the BET. Give it back. I asked for that earlier this year. Give it back. Let the businessmen in Salem decide how to advertise and we'll spend our own money. It's probably a fairer way. I'll tell you, the dollars will be a hell of a lot more. It just doesn't make sense. It's a tradition down there. We're trying to save it. They've even said that they tried to get thoroughbred racing in this year. Obviously, they're working harder toward next year, but this year, they're talking about getting it in there. They've even brought the town over there. They brought the town fireworks. They moved the whole town in one year. I don't even know the new guys that are getting involved with it, but at least they're making an effort to bring it back to what I did see. A horse racing that should exist in Salem. It's new blood. It's new times. But the fact is, they're counting on this money. I'm sorry, I'm passionate about my own community, but I think everybody here is. There's no doubt you'd all fight for your own communities; you do it every time you come before Finance, and we end up in the same spot. I mean, we all fight for our own and I'd appreciate your support.

SENATOR BRAGDON: Mr. President, I move the question.

SENATOR GATSAS (In the Chair): I have four speakers. Senator Burling.

SENATOR BURLING: Thank you. I want to just rise to say how very much I appreciate the last speaker's thoughts, 'cause you have brought us back to what this is about and I love this issue because it is about us and our local communities. We have such different experiences apparently about the tracks. I remember the track as where a group of young men would come to my farm on a Friday afternoon, we would load two trotting mares into the back of the horse van, and I'd head off for Hinsdale. And you know, we'd have a heck of a weekend. I didn't win a lot with those horses, but every time we did, it was like the world lit up with fireworks. This is about making choices. My vote is based on the choice that I make for my district. The young men and women who were prepared to tend horses and take care of them and get them to the tracks and race them, and looked to this kind of miniscule investment by the state to help create purses that would make it possible to do this. I choose that over the other thing which is true in my district. And you know what the other thing is? It's a pair of beautiful Van Houtle buses belching gray smoke as they leave White River Junction on Friday Afternoon headed down to Connecticut. That's the alternative. Those people are going to gamble, as is their right, at the casino. Now, with all due respect for those of us who care about animals, and I accede to no one, that issue. Then if we have cares, let us deal with them with regulations and concerns and with appropriations. But I don't think that's what this is about. And if you don't like racing, then let's just prohibit racing and be done with it. But you're not going to have my vote to do it. This bill is the exact corollary of requiring the liquor commission to stop advertising the sale of booze. That's all it is.

SENATOR FLANDERS: Thank you, Mr. President. I'll be very brief. I think the problem that I have in my district is that, when this bill was published, the biggest gripe I got on my phone, and I got quite a few of them, was the sweepstakes money. I think that if there's a way, and hopefully, there's no such thing as a stupid question or a stupid statement, I would...the date on this is July of '07, which is over a year. I would like

to see us put this in the budget and you can put it in as marketing or whatever. I think the problem that I had that people seeing sweepstakes money and they know it's supposed to go to education. I'm not opposed, I'm not opposed to helping the tracks. I understand what I've heard to-day financially. We give them that, and they give us money back, and that's a fair deal. My problem is my people don't want me to vote for sweepstakes money to go to the racetracks. I would like to see some sort of an agreement where we could put it in the budget. We talked about it in caucus. I think we should go that route. It's not a lot of money. I don't think that amount of money's going to break the budget. And we can satisfy a lot of people in this state, by saying you're right. All sweepstakes money goes to education. Thank you.

SENATOR D'ALLESANDRO: Thank you, Mr. President. Just to answer a couple of questions. It is in the budget. It is a budgeted item. It's in the budget. We budget the money to go to the tracks for the sweepstakes race. It is a budget, it is a budget item. So I want to make that, I want to make that clear to everybody. It is a budgeted item. Mr. President, is this the appropriate time to offer an amendment to the ought to pass motion or do I have to wait?

SENATOR GATSAS (In the Chair): Senator, I have one more speaker.

SENATOR D'ALLESANDRO: Okay.

SENATOR GATSAS (In the Chair): Then you can offer your amendment.

SENATOR D'ALLESANDRO: Thank you.

SENATOR BOYCE: Thank you, Mr. President. I'll try to be brief. Like some of the other speakers before me, I have a racetrack in my district. However, I rise in favor of the ought to pass. It makes me a little different from the rest. I have found something I can vote for today. Now actually, I would trade voting yes, I would trade voting yes for the ought to pass on this bill for an agreement from some of the other people who are against this bill passing, changing their vote on the next bill, because in testimony on the next bill, which is very closely related to this, we heard that one of these racetracks has built a facility for the poker, the high stakes poker, which is running rampant in this state, totally unregulated today, is purportedly raising money for charity, but we also heard that most of that money's going straight into the operators' pockets, in this case, a racetrack. Now it's interesting that I heard that the lobbyist for that particular racetrack on this bill said, if you take away this money, they're going to stop selling your lottery tickets at the racetrack. They're going to take those lottery sales machines right out of there. They won't sell your lottery tickets anymore. He said it's not a threat, it's just, you know, just the way things are. It's interesting that they want to make this money on this unregulated operation. I believe they were testifying against the next bill. They don't want us to regulate the high stakes poker because they know it makes their wallets very fat, while putting very little into the charity's pocket. But they want us to, they want to threaten us I guess. No, it wasn't a threat. He said it wasn't a threat. They want to promise us, that they'll stop selling lottery tickets at their tracks. Well, we heard a little while ago from the chairman of Ways and Means, that we get millions of dollars, millions of dollars in taxes from the tracks. I beg to differ that it's millions. I think it's millions. In fact, the last I heard it was in the range of a couple million, one or two, maybe three, from all of the racing. So what they pay us back in the racing taxes, this is a pretty large portion of what they

pay in the taxes. And, as far as the revenue we get from selling lottery tickets at the tracks, we'll probably be able to sell the same amount of lottery tickets at the liquor store as the people drive back to wherever they came from, as they go home. So we'll still sell the lottery tickets to them as they buy their liquor at our liquor stores. But this is a subsidy whether you like it or not. This is subsidy to a small group of people. If we want to subsidize people for selling lottery tickets, we should offer that same type of subsidy to the convenient store down the street. They sell a lot of lottery tickets at that convenient store, at the grocery store. We sell lottery tickets everywhere, not just at the race tracks. They might sell a bunch because, gee, they're catering to people that love to gamble. Well gee, you cater to somebody with an addiction. Gee, that's like selling booze to a drunk, isn't it? Maybe we should pass this bill and amend the next one to ban some gambling. Thank you.

### **POINT OF ORDER**

SENATOR BRAGDON: I had moved the question, so would it not be appropriate for an amendment to be offered, I believe?

SENATOR GATSAS (In the Chair): I believe that the Senator can still move his amendment.

Senator D'Allesandro offered a floor amendment.

Sen. D'Allesandro, Dist. 20

**April 20, 2006**

**2006-1945s**

**08/01**

### **Floor Amendment to HB 1612-FN**

Amend the bill by replacing section 8 with the following:

8 Effective Date. This act shall take effect July 1, 2009.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I'd like to offer amendment 1945s and ask that it be carried out. The amendment just changes the effective date to July 1, 2009. The reason for this is that each of these tracks run sweepstakes races after the beginning of the fiscal year and this will allow them to continue that until this bill, if passed, goes into play. That's all it does. Thank you.

SENATOR ROBERGE: Thank you, Mr. Chair...Mr. President. This amendment I would characterize as a killer amendment. It's not necessary to wait two extra years. The effective date now is July 1, 2007. That puts us through the next budget cycle. This one puts it so far ahead that it really, as I say, it's a killer amendment, and it's not necessary. I will vote against it.

**The question is on adoption of the floor amendment.**

**A roll call was requested by Senator Barnes.**

**Seconded by Senator Bragdon.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Burling, Green, Flanders, Eaton, Bragdon, Foster, Larsen, Letourneau, D'Allesandro, Estabrook, Morse, Hassan.**

**The following Senators voted No: Boyce, Odell, Roberge, Gottesman, Clegg, Gatsas, Barnes, Martel, Fuller Clark.**

**Yeas: 15 - Nays: 9**

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**A roll call was requested by Senator Bragdon.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Johnson, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Gottesman, Foster, Clegg, Larsen, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: Gallus, Kenney, Bragdon, Barnes, Martel.**

**Yeas: 18 - Nays: 5**

**Adopted.**

**Ordered to third reading.**

Senator Gatsas (Rule #42) on HB 1612-FN.

### **MOTION TO REMOVE FROM THE TABLE**

Senator Boyce moved to have HB 1155 removed from the table.

SENATOR BOYCE: Mr. President, is it appropriate to take House Bill 1155 off the table at this point?

**Adopted.**

**HB 1155**, creating a violation for failure to pay a highway toll.

SENATOR BOYCE: Mr. President, in conferring with the Senate counsel, it was a discrepancy between the floor remarks and the bill itself that had me confused. And this bill actually, apparently, is needed, as it was worded, because, in passing the EZ Pass, we, I guess, accidentally wiped out the penalty for going through a non-EZ Pass lane. So the need for this bill is, as it states in the bill, for going through a facility, a toll facility that is not equipped with an EZ Pass, we need to reinstate that penalty. So we need to go ahead and vote for the bill as we already did. And I apologize for the confusion, but I would much rather be confused now than be confused when it got into statute. So, I believe that as it's written, I've been assured that the existing statute takes care of the EZ Pass lanes; this is to take care of the non-EZ Pass lanes. And that was the confusion. Thank you.

**The question is on the committee report of ought to pass.**

**Adopted.**

**Ordered to third reading.**

**HB 1744-FN-A**, authorizing the pari-mutuel commission to regulate games of chance conducted by charitable organizations and relative to tournaments conducted by charitable organizations where chips have no monetary face value. Ways and Means Committee. Ought to pass with amendment, Vote 3-1. Senator D'Allesandro for the committee.

**Senate Ways and Means**

**April 12, 2006**

**2006-1784s**

**05/09**

### **Amendment to HB 1744-FN-A**

Amend RSA 287-D:2-a, II(c) as inserted by section 8 of the bill by replacing it with the following:

***(c) The name of the New Hampshire bank or credit union and the corresponding bank account number for the account in which money from the game of chance will be deposited and withdrawn.***

Amend RSA 287-D:2-a, IV as inserted by section 8 of the bill by replacing it with the following:

IV. ***Initial*** applications shall be received by the ~~[chief of police and attorney general 15]~~ ***pari-mutuel commission*** 30 days ~~[prior to]~~ ***before*** the first game date of ~~[each month]~~ ***the year***. This requirement may be waived by the ~~[attorney general]~~ ***pari-mutuel commission*** for good cause shown.

Amend RSA 287-D:2-a as inserted by section 8 of the bill by deleting paragraph X.

Amend RSA 287-D:2-b, XI as inserted by section 10 of the bill by replacing it with the following:

XI. For games of chance where chips have no monetary face value, the charitable organization may offer any number of games per licensed event, in which each player may spend up to \$300 including buy-ins and re-buys per game.

Amend RSA 287-D:2-c, IV as inserted by section 11 of the bill by replacing it with the following:

IV. Initial applications shall be received by the pari-mutuel commission at least 30 days before the first game date of the year. The requirement may be waived by the pari-mutuel commission for good cause shown.

Amend RSA 287-D:3, VIII as inserted by section 12 of the bill by replacing it with the following:

VIII. In tournaments where chips have no monetary face value, the charitable organization shall retain no less than 30 percent of the gross revenues minus any prizes paid on any game date in which game operators licensed under RSA 287-D:2-c are involved in any capacity. Such revenues shall be used by the organization to advance its charitable purpose.

Amend the bill by replacing section 17 with the following:

17 Effective Date. This act shall take effect upon its passage.

SENATOR D'ALLESANDRO: Thank you, Mr. President. This is my day to shine. I move House Bill 1744 ought to pass with amendment. This bill authorizes the Pari-Mutuel Commission to regulate games of chance conducted by charitable organizations. It will also provide some much-needed oversight in this area and guarantee that the charity gets 30 percent of the gross revenue. The Ways and Means Committee recommends that this legislation be adopted and asks your support. Thank you, Mr. President.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

SENATOR BOYCE: Thank you, Mr. President. I rise in opposition to the concept of this bill. I would much rather see a bill that would simply ban these high stakes poker games, because they are an expansion of gambling that we've allowed simply by looking the other way and this bill doesn't go very far in regulating them, I don't think. And I spoke with the gentleman from the chiefs of police, and while they are in favor of this bill because it allows some regulation of these games, he told me outside the committee room that, "Gee, if you want to ban 'em, that would probably be even better." But I know I don't have another twelve members of this body that would vote with me to do that, so I didn't bring in

a floor amendment to that effect, but I think that would be much better. This gambling that's done in the name of charities is not terribly charitable. We've heard that, in the current situation, as much as 90 percent of the money brought in does not go to the charity. That's atrocious. We allow bingo and, in bingo, all the money except for the taxes has to go to the charity. They are allowed to pay rent on the building, but we even regulate how much they can pay for rent on the building. But this, currently, there's no regulations on this, so I suppose this is better than nothing, but I would much prefer that we simply ban this Texas Hold'em and other casino like games that are being played all over the state. We're not very far from having actual casinos here with this situation. We have people that are building buildings that are dedicated to this gambling operation, so a wink and a nod, that's a casino, isn't it? They have...the chips have no value but it costs you \$500 to buy a stack of chips. Wait a minute, it's something that has no value, but it costs \$500? You know, I disagree with this all the way around. I'm just sorry that we didn't have a bill before us to ban this rather than just to try to regulate it a little. Thank you.

SENATOR CLEGG: Thank you, Mr. President. I stand in favor of the committee report. Let me point out that the previous speaker said typically a charitable organization is lucky to get 10 or 12 percent. This bill guarantees them 30 percent, so we're in essence helping the tracks maintain what they do have. We're increasing the amount of money that the charities do take in, and we're collecting a little bit of money for ourselves, too. We got the Lucky Sevens in here. So what we're doing, this already happens. We're not starting anything new, we're not changing anything; we're just doing what we think is the right thing. Charity ought to get at least 30 percent if you're going to use their name, not 10 percent, not 8 percent, and in some cases we heard zero. So I think it's a good bill. I think it's a step in the right direction, and I urge my colleagues to support it.

**Adopted.**

**Ordered to third reading.**

Senator Boyce is in opposition to the motion of ought to pass as amended on HB 1744-FN-A.

**HB 1426**, granting a right-of-way over state-owned land. Capital Budget Committee. Ought to pass, Vote 5-0. Senator Morse for the committee.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 1426 ought to pass. In 1972, Fish and Game traded a two-acre parcel of land on the east side of Concord for public access to the boat ramp. In exchange, the owner of Brochu Nurseries got 1-1/4 acres on the other side of the river. At the time of the initial transaction, the right of access was assumed. This legislation clarifies the agreement that the owner has access to his property as long as the owner uses the land for agricultural purposes. The Finance Committee, no, the Capital Budget Committee asks for your support. Oops.

SENATOR LARSEN: I rise to support the original bill and to say that this has been a situation which over the years had been a gentlemen's agreement with Mr. Brochu and the state. But as time went on, it became apparent that he needed something to make the ownership and the right-of-way of this property clear in law because, as time goes on, those understanding may pass away. So I rise to support the bill and applaud the Capital Budget for their ought to pass motion.



Senator Clegg offered a floor amendment.

Sen. Clegg, Dist. 14

**April 20, 2006**

**2006-1953s**

**08/09**

### **Floor Amendment to HB 1426**

Amend the title of the bill by replacing it with the following:

AN ACT granting a right-of-way over state-owned land and exempting certain plant species from the invasive species list.

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 5.

4 Invasive Species; Exemptions. Amend RSA 430:53, III to read as follows:

III. The commissioner shall consult with the invasive species committee and prepare and publish by April 1 annually a list of invasive species deemed to present an immediate danger to the health of native species, to the environment, to commercial agricultural or forest crop production, or to human health. The commissioner shall have authority to prohibit collection possession, importation, transportation, sale, propagation, transplantation or cultivation by any person of any species so listed. Such list shall be known as the "New Hampshire prohibited invasive species list." *The following species shall not be included on this list:*

- (a) *Burning bush (Euonymus alatus)*
- (b) *Japanese barberry (Berberis thunbergii)*
- (c) *European barberry (Berberis vulgaris)*
- (d) *Norway maple (Acer platanoides)*

**2006-1953s**

### **AMENDED ANALYSIS**

This bill grants a right-of-way over the former Boston and Maine railroad land in Concord, New Hampshire

This bill also exempts certain plant species from the New Hampshire invasive species list.

SENATOR CLEGG: I'd like to offer amendment 1953.

SENATOR GATSAS (In the Chair): Floor amendment 1953s has been proposed and you can speak to the amendment while it's being passed out. Thank you.

SENATOR CLEGG: Thank you. A few years ago what we had done is we had banned certain products from nurseries or from allowing nurseries to sell them. They're typical Burning Bush, Japanese Barberry, Norway Maple, that's that real nice red leaf tree we all like to see. They call them "invasive species". What we didn't take into consideration is that the New Hampshire horticultural industry generates about \$438 million a year, and that's according to a 2003 numbers. And this is going to cost about \$19 million to that industry. Now we left a phase-in and the phase-in is coming. So the nurseries have said, "I can't afford to lose any more business. These are the plants people want to buy." And you know, just because New Hampshire's banned them, doesn't mean we're not going to get 'em. I hate to make plants and toilets the same, but we banned any toilet that flushed more than 1-1/2 gallon. So, if you're smart, you talk to somebody who's going to Canada where they still sell the three

gallon flushers and they bring them down into New Hampshire. So we haven't banned anything; we've just created a problem for our local sales people. So this amendment adds back in the four plants that are most desired by homeowners in their landscaping, and that the nurserymen in the state of New Hampshire have made a good living providing for the rest of us, and I ask for your support.

SENATOR LARSEN: I just have to rise because I do believe that these are invasive species. I think that any of us who are doing our gardening are aware that, if you have one burning bush in your lawn, you have multiple burning bush in your lawn. These are not native plants and they in fact push out some of our more native plants. The same with both barberries and the Norway Maple. I understand the concerns of nurserymen and nurserywomen, and I believe that, if we we're going to do this, we ought to phase it out, not simply to authorize its sale.

SENATOR MORSE: I feel like the Senate President talking about horses right now. It's a...first of all, I'd like to make it clear that I can't vote on this issue and I appreciate the offer that was made earlier. I gave Senator Clegg all the documentation that I got from the nurserymen. Again, we don't fight battles to the end in this state, because we feel like we have to compromise. I heartily believe that the plants involved in here are plants that we should be leading the nation, which we did, in banning and then, not saying to the people that live in the state of New Hampshire, you can't go buy them in another state and bring 'em into this state. I'm all for some of the problems we've had with hemlocks and banning them, and those type products. But these four products, I have a difficult time understanding why we did it. And, to the nurserymen, they mean about 5 percent of sales. \$19 million was 2003 dollars. But quite frankly, what will happen with these products is they will phase themselves out because growers have already made cutbacks. I think all you're doing right now is offering to the nurserymen the opportunity to continue selling, while you're allowing the people in the state to continue buying, 'cause you haven't stopped that. I think it's a wise way to go and again, I won't be voting on this amendment.

SENATOR FULLER CLARK: Thank you very much, Mr. President. I have to rise in opposition to this amendment and to speak to the fact that there is a growing movement across this country to ban invasive species plants that are not native to the various areas where we live. And I would agree with Senator Morse, that probably what we should have done is made it illegal for these plants to be purchased and brought in from out-of-state. Finally, I think that this is a much larger issue than what this amendment would suggest today. And I don't understand why this wasn't brought forward as a separate bill where we could be able to bring all of the information to bear in making a reasonable judgment rather than putting our native species at risk through this amendment. Thank you.

**Recess.**

**Out of recess.**

SENATOR HASSAN: Thank you. And I will be brief. I just, I rise as a member of the Environment and Wildlife Committee. I understand the concerns of the nurserymen in this state. I understand that there's a high consumer demand for these issues, for these plants. I just have concerns about being asked to make a judgment in this area without a policy hearing on it, and I just wanted to express my concern to my colleagues. Thank you.

SENATOR BURLING: Senator Hassan, would you yield to a question?

SENATOR HASSAN: Certainly, Senator Burling.

SENATOR BURLING: Senator, we've heard that the real problem here is that we're not prohibiting the importation of these things; that while we prohibit the sale of them, we don't stop them at the border. Wouldn't the way to fix this be simply to take out two words on line 13, "the commissioner "shall prohibit" collection etc, etc. etc."? Doesn't that mean that we're not going to let those things be sold, imported or made part of our herbaculture?

SENATOR HASSAN: I would agree with you that that certainly would be an interpretation of that language. I rise, not because I necessary think banning these species is a good thing, I just don't have the information or the testimony to know.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

Senator Foster (Rule #42) on HB 1426.

Senator Morse (Rule #42) on HB 1426.

### **MOTION TO REMOVE FROM THE TABLE**

Senator Letourneau moved to have HB 1417 removed from the table.

SENATOR LETOURNEAU: Thank you, Mr. President. I'd like to take House Bill 1417 off the table.

**Adopted.**

**HB 1417**, establishing gold star number plates.

SENATOR GATSAS (In the Chair): The status of where we are, we're on floor amendment 1955.

SENATOR LETOURNEAU: Yes. And I'd like to withdraw that amendment and offer another amendment.

Senator Letourneau moved to withdraw his floor amendment (#1955).

**Adopted.**

Senator Letourneau offered a floor amendment.

Sen. Gallus, Dist. 1

Sen. Johnson, Dist. 2

Sen. Kenney, Dist. 3

Sen. Boyce, Dist. 4

Sen. Burling, Dist. 5

Sen. Green, Dist. 6

Sen. Flanders, Dist. 7

Sen. Odell, Dist. 8

Sen. Roberge, Dist. 9

Sen. Eaton, Dist. 10

Sen. Bragdon, Dist. 11

Sen. Gottesman, Dist. 12

Sen. Foster, Dist. 13

Sen. Clegg, Dist. 14

Sen. Larsen, Dist. 15

Sen. Gatsas, Dist. 16  
 Sen. Barnes, Dist. 17  
 Sen. Martel, Dist. 18  
 Sen. Letourneau, Dist. 19  
 Sen. D'Allesandro, Dist. 20  
 Sen. Estabrook, Dist. 21  
 Sen. Morse, Dist. 22  
 Sen. Hassan, Dist. 23  
 Sen. Fuller Clark, Dist. 24

**April 20, 2006**

**2006-1960s**

**09/10**

### **Floor Amendment to HB 1417-FN**

Amend the title of the bill by replacing it with the following:

**AN ACT** establishing gold star number plates and relative to special number plates for veterans.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Gold Star Number Plates. Amend RSA 261 by inserting after section 87-b the following new section:

261:87-c Gold Star Number Plates.

I. The department shall furnish one set of special number plates, designed by the director with the approval of the commissioner, for one motor vehicle owned by a mother of a person killed while on duty in the United States armed forces. These gold star number plates shall be issued upon payment of the regular registration and number plate fees.

II. For purposes of this section, a motor vehicle is owned by a mother of a person killed while on duty in the United States armed forces if the mother of a person killed while on duty in the United States armed forces is the motor vehicle's owner under RSA 259:72, I, or if the legal ownership of the motor vehicle is held by a trust established by the mother of a person killed while on duty in the United States armed forces and the mother of a person killed while on duty in the United States armed forces has use of the motor vehicle or the motor vehicle is used for the transportation of the mother of a person killed while on duty in the United States armed forces. The director shall establish the documentation required for a motor vehicle held in trust to be eligible for plates under this section. The director shall not issue more than one set of plates under this section to any trust. A trustee of the trust or the administrator of the estate may be fined up to \$500 for failing to return within 60 days of the death of the mother of a person killed while on duty in the United States armed forces any plates issued under this section for a motor vehicle held in trust.

2 Special Number Plates for Veterans; Eligibility. Amend RSA 261:87-b to read as follows:

261:87-b Special Number Plates for Veterans. The director is hereby authorized to issue special number plates to be used on motor vehicles owned by veterans of the United States armed services, in lieu of other number plates. The design of these special plates shall be determined by the commissioner, and shall be distinct from the design or designs of those plates issued under RSA 261:86. Such plates shall be issued only **to veterans as defined in RSA 21:50, I(a)** upon application, proof of ~~[honorable discharge from the armed services as deemed appropriate by the director]~~ **veteran status in a form authorized by RSA 21:50, I(b),**

and payment of a one time \$25 fee to recover production and administrative costs that shall be in addition to the regular motor vehicle registration fee and any other number plate fees otherwise required. The director shall also issue such plates to any person providing proof of honorable discharge from the armed services of any nation allied with the United States during World War II and proof of such person's service during World War II. Renewals of such special number plates shall be charged the fee assessed for standard motor vehicles as prescribed under RSA 261:141. The plates furnished pursuant to this section are non-transferable and shall expire upon the death of the veteran.

3 Effective Date. This act shall take effect 60 days after its passage.

**2006-1960s**

### AMENDED ANALYSIS

This bill establishes gold star number plates. This bill also clarifies the eligibility requirements for special number plates for veterans.

SENATOR GATSAS (In the Chair): Floor amendment 1960 is being proposed. Would you speak to that amendment as it's being passed out?

SENATOR LETOURNEAU: That was also a very good year. This amendment is the exact same amendment as 1955. All twenty-four Senators are on this amendment. As I said, this is the exact same amendment we had before. I don't need to go through the whole speech again. This is gold star mothers. All twenty-four Senators are signed on. Thank you very much.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**A roll call was requested by Senator Barnes.**

**Seconded by Senator Letourneau.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: None.**

**Yeas: 24 - Nays: 0**

**Adopted.**

**Ordered to third reading.**

### MOTION TO REMOVE FROM THE TABLE

Senator Hassan moved to have HB 1491 taken from the table.

SENATOR HASSAN: Thank you, Mr. Chair. I rise with the concurrence, I believe, of my friend, Senator Clegg, to take House Bill 1491 off the table.

**Adopted.**

**HB 1491**, establishing a committee to study the publicly owned treatment plant needs of New Hampshire.

The question is on the adoption of the committee amendment (#1636).

SENATOR GATSAS (In the Chair): Okay. We're on the committee amendment, which has not been adopted.

SENATOR HASSAN: That's correct. And if I may speak to the committee amendment?

SENATOR GATSAS (In the Chair): You may speak to the committee amendment.

SENATOR HASSAN: Thank you. This is a piece of housekeeping that we realized would need to occur because of the way we're handling study committees in this session. The committee amendment to 1491. 1491 establishes a waste water...a study of the state's waste water treatment plants. The committee amendment that was proposed amended the study to extend the dates for reporting of the Great Bay Estuary Commission and for convening east, which is a companion piece of legislation to the Great Bay Estuary Commission. Because all study committees were tabled, this body has never adopted this amendment and, even if we do, the whole bill will go back on the table. So I would ask you all to defeat this committee amendment so that I can offer a floor amendment to follow that will take care of this technical problem. Thank you.

SENATOR BRAGDON: Thank you, Mr. President. I'm just very curious. I don't see this bill listed on the table anywhere or I didn't see it today. So I'm just wondering where it came from and how it got on the table? We have extra sheets?

SENATOR GATSAS (In the Chair): We have extra sheets.

SENATOR BRAGDON: Nobody tells me anything.

SENATOR GATSAS (In the Chair): The table's getting very large.

SENATOR BRAGDON: Ahhhh. Thank you, Mr. President.

SENATOR GATSAS (In the Chair): **TAPE INAUDIBLE** Senator Bragdon?

SENATOR BRAGDON: I haven't looked, but I'm trusting you, Mr. President.

SENATOR GATSAS (In the Chair): Okay.

**Amendment failed.**

Senator Hassan offered a floor amendment.

Sen. Hassan, Dist. 23

**April 20, 2006**

**2006-1959s**

**08/09**

**Floor Amendment to HB 1491**

Amend the title of the bill by replacing it with the following:

AN ACT extending certain deadlines relating to the Great Bay Estuary Commission.

Amend the bill by replacing all after the enacting clause with the following:

1 Great Bay Estuary Commission; Reporting Date Extended. Amend 2003, 236:5 as amended by 2004, 20:11 and 2005, 104:4 to read as follows:

236:5 Report. The commission shall report its findings and any recommendations for proposed legislation to the senate president, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before [November 1, 2006] **December 31, 2007.**

2 EAST; First Meeting Deadline, Extended. Amend 2004, 258:2 to read as follows:

258:2 First Meeting. The chairperson of the Great Bay Estuary commission, established by 2003, 236, shall call the first meeting of EAST prior to [~~November 1, 2005~~] **December 31, 2007**.

3 Effective Date. This act shall take effect upon its passage.

**2006-1959s**

### AMENDED ANALYSIS

This bill extends the reporting deadline of the Great Bay Estuary Commission and extends the first meeting deadline of the Estuary Alliance for Sewage Treatment.

SENATOR HASSAN: Thank you, Mr. President. I'd like to offer floor amendment 1959s.

SENATOR GATSAS (In the Chair): 1951s has been proposed. Will you speak on your amendment as it's being passed?

SENATOR HASSAN: Yes, sir. This amendment deletes from 1491, the study committee and adds the extension of the Great Bay Estuary Commission dates. I want to reassure my friends in the House who are sponsors of HB 1491 that it is my understanding that the waste water study that was passed will be part of the omnibus set of study committee bills. I don't know how many bills we're likely to have, but it is our intention to include the waste water study in the Senate Bill.

SENATOR GATSAS (In the Chair): And you'll watch that along, Senator?

SENATOR HASSAN: I will watch that, yes.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

### RESOLUTION

Senator Clegg moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that all bills and resolutions ordered to third reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

**Adopted.**

### LATE SESSION

#### Third Reading and Final Passage

**HB 391**, relative to election affidavits.

**HB 656-FN**, relative to medical decision making for those adults without capacity to make health care decisions for themselves and establishing procedures for Do Not Resuscitate Orders.

**HB 688-FN**, relative to the regulation of mental health practitioners and the procedures of the board of mental health.

**HB 716-FN**, relative to securities regulation.

**HB 1111**, designating the pumpkin as the New Hampshire state fruit.

**HB 1155**, creating a violation for failure to pay a highway toll.

**HB 1172-FN**, relative to registration of political committees.

**HB 1174**, requiring that voters who request a secret ballot be present at the town meeting.

**HB 1182-FN**, relative to the limited commercial lobster license fees.

**HB 1215**, relative to the winter maintenance of Diamond Pond Road in the towns of Colebrook and Stewartstown.

**HB 1223-FN**, relative to the use of real estate brokers by the department of transportation.

**HB 1265**, establishing the council on the relationship between public health and the environment.

**HB 1307**, relative to application requirements for motor vehicle recycling yard licenses.

**HB 1320**, relative to penalties for planning and zoning violations.

**HB 1330**, clarifying the laws relative to municipal enrollment in the National Flood Insurance Program and relative to adopting flood insurance rate map amendments.

**HB 1335**, relative to the authority of law enforcement officers during a state of emergency.

**HB 1394**, relative to determination of value of property in current use.

**HB 1410-FN-L**, relative to the cost to counties of convicted inmates awaiting sentencing in a county correctional facility.

**HB 1417-FN**, establishing gold star number plates.

**HB 1419-FN**, relative to mediation in divorce proceedings.

**HB 1426**, granting a right-of-way over state-owned land.

**HB 1463-FN**, relative to boating and water safety.

**HB 1491**, establishing a committee to study the publicly owned treatment plant needs of New Hampshire.

**HB 1536**, relative to bonds required from persons excavating or disturbing certain highways.

**HB 1567**, relative to removing names from the checklist.

**HB 1612-FN**, relative to the use of lottery revenue as purses for horse and dog racing.

**HB 1613-FN**, relative to polling place arrangement and accessibility.

**HB 1630-L**, relative to land use change taxes imposed for certain road construction on rights-of-way.

**HB 1634-FN**, making technical changes to the law governing the New Hampshire retirement system.

**HB 1652-FN**, relative to certain insurance claims.

**HB 1667-FN**, establishing penalties for methamphetamine manufacturing and possession of substances with intent to manufacture methamphetamine.

**HB 1673-FN**, relative to the reduction of mercury emissions.

**HB 1681-FN**, establishing the unused prescription drug program.

**HB 1709-FN**, establishing an autism registry in the department of health and human services.

**HB 1711-FN**, relative to the regulation of fuel gas fitters.

**HB 1720-FN**, relative to notice of parent liability in CHINS proceedings.



**HB 1727-FN-L**, relative to transfer or discharge of patients or residents in licensed facilities.

**HB 1738-FN**, prohibiting the use of surveillance devices to identify motor vehicles.

**HB 1744-FN-A**, authorizing the pari-mutuel commission to regulate games of chance conducted by charitable organizations and relative to tournaments conducted by charitable organizations where chips have no monetary face value.

**HB 1749-FN**, relative to access to motor vehicle records by certain defense contractors.

**HCR 20**, a resolution commending the New Hampshire committee for Employer Support of the Guard and Reserve.

**HJR 22**, a resolution in recognition and support of New Hampshire's participation in the Experimental Program to Stimulate Competitive Research.

**HJR 25**, encouraging the United States Congress to propose an amendment to the Constitution concerning eminent domain.

**CACR 30**, relating to limits on the taking of private property. Providing that a person's property shall not be taken by eminent domain if the taking is for private use.

### ANNOUNCEMENTS

SENATOR BARNES: Is this my time now, Mr. President, to ask Senator Morse a question?

SENATOR GATSAS (In the Chair): You can ask Senator Morse a question.

SENATOR BARNES: Senator Morse, will you take a question?

SENATOR MORSE: Sure.

SENATOR BARNES: Two questions, Senator Morse. In passing the pieces of legislation out of Finance today, how much did this body spend on today's bills?

SENATOR MORSE: Zero appropriations.

SENATOR BARNES: One more time?

SENATOR MORSE: Zero. Zero.

SENATOR BARNES: Second question, Senator Morse. The running total, how much has this body spent on bills that have come through Finance?

SENATOR MORSE: At this, at this time, well, hold on. The Senate still sits at \$13 million. The total so far between both bodies is at \$31.5, and that's still all in play right now. I think there's actually more dollars that are on the table.

SENATOR BARNES: Thank you, Senator Morse.

### RESOLUTION

Senator Clegg moved that the Senate recess to the Call of the Chair for the purpose of introducing legislation, sending and receiving messages, processing enrolled bill reports and amendments.

**Adopted.**

**In recess to the Call of the Chair.**

### HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bills sent down from the Senate:

**SB 233**, relative to motorcycle rider education.

**SB 234**, including the International Residential Code 2000 in the definition of the state building code.

**SB 249**, allowing a master electrician to have 2 apprentice electricians under his or her supervision, and relative to examinations of electricians by the electricians' board.

**SB 254**, renaming a certain bridge in the town of Stratford the Janice Peaslee Bridge.

**SB 260**, relative to certification of a registered nurse responsible for emergency medical transportation.

**SB 342**, relative to the treatment of glaucoma by optometrists.

**SB 357-FN**, relative to eligibility for motorcycle licenses.

**SB 404**, relative to retirement benefits, service credits, and administration of the Manchester employees' contributory retirement system.

### HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bills sent down from the Senate:

**SB 288-FN**, relative to street rods.

**SB 302-FN**, relative to real estate brokers.

**SB 317-FN**, establishing a screening panel to review complaints to occupational and professional regulatory boards and establishing an appeals board to review decisions by occupational and professional regulatory boards.

### HOUSE MESSAGE

The House of Representatives has referred for Interim Study the following entitled Bills sent down from the Senate:

**SB 337**, relative to the sale and repurchase of property acquired by tax deed.

**SB 353-FN**, relative to registration of criminal offenders convicted of homicide.

### HOUSE MESSAGE

The House of Representatives has voted to Lay On The Table the following entitled Bill sent down from the Senate:

**SB 324**, requiring notification concerning certain offenders against children.

### HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

**HB 599-FN**, requiring disclosure to consumers of the presence of event data recording devices in new motor vehicles.

**HB 1108**, relative to the transfer of funds among PAU's within a department and relative to the temporary provision of assistance to persons eligible for both Medicaid and Medicare services and extending the appropriation therefor.

**HB 1228-FN**, relative to the sale or lease of state-owned real estate and relative to penalties under the real estate practice act.

**HB 1294**, relative to antique snowmobiles.

**HB 1349**, relative to costs of personnel and rates for equipment use in hazardous waste incidents.

**HB 1420-FN**, prohibiting remote control and Internet hunting and relative to exceptions to the prohibitions on the sale of firearms to minors and the furnishing of arms to persons under 16.

**HB 1754**, relative to canteen privileges at veterans' clubs licensed by the liquor commission.

### **REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

**HB 317-FN**, relative to mooring fees.

**HB 345**, requiring photo identification to obtain a ballot.

**HB 624-FN**, relative to penalties in certain health and health-related professions.

**HB 1135**, making a technical correction to the Uniform Interstate Family Support Act.

**HB 1173**, relative to designating the clerk in cities the chief elections officer for the city.

**HB 1189**, relative to audits by the legislative budget assistant.

**HB 1227-FN**, relative to late fees and reinstatement fees paid by business entities.

**HB 1313**, naming a bridge between the towns of Newfields and Stratham the United States Submarine Veterans of World War II Memorial Bridge.

**HB 1324**, relative to the commission to study the state park system.

**HB 1356**, relative to on-board diagnostic system inspections.

**HB 1361**, relative to the penalty for shoplifting.

**HB 1465-FN**, relative to food stamp overpayments.

**HB 1487**, relative to marriage licenses.

**HB 1584**, relative to cemetery setbacks and septic systems.

**HJR 21**, urging the university of New Hampshire to restore intercollegiate baseball and softball.

**SB 207-FN**, relative to enhanced penalties for certain crimes against the elderly and persons with a physical or mental disability.

**SB 328**, relative to the regulation of snowmobiles and off highway recreational vehicles.

**SB 332**, making technical corrections to the uniform trust code and related statutes.

**SB 395**, relative to the number of children in a licensed foster home.

Senator D'Allesandro moved adoption.

**Adopted.**

**REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

**HB 1420-FN**, prohibiting remote control and Internet hunting and relative to exceptions to the prohibitions on the sale of firearms to minors and the furnishing of arms to persons under 16.

**SB 357-FN**, relative to eligibility for motorcycle licenses.

Senator D'Allesandro moved adoption.

**Adopted.**

**Out of Recess.**

**LATE SESSION**

Senator Clegg moved that the Senate adjourn from the late session.

**Adopted.**

**Adjournment.**

*May 3, 2006*

The Senate met at 10:00 a.m.

A quorum was present.

The Reverend David P. Jones, chaplain to the Senate, offered the prayer.

Good Morning. Imagine what it was like to be in San Francisco on April 18, 1906, one hundred years and a little bit more from last month, because what happened that day was that the solid terra firma that everybody had depended upon became, for one endlessly terrifying minute, terra infirmata. Buildings collapsed, streets buckled, fires started and the whole topography of the area was changed. What terra firma is your life constructed upon is the question that makes me think about: your personal life, your professional life, and in this place, your political life? Because the lesson is, ground, even the firmest ground, shifts and when it does, the most rigid structures and the most non-flexible lives are in danger of sudden collapse. And that's always too bad. Because health changes, relationships change, political alignments change, and where they will, people who have built their lives on such temporary and unstable structures will find that rubble is the result. So here's the earthquake question for you, and it's for you, too. What is the life-sustaining platform upon which you have chosen to construct your entire life? And when the rattles come, will the result be merely distraction or will it be destruction? It all depends on the platform you choose. So choose carefully. Let us pray:

*As life shakes, rattles, and rolls us, O God, hold us steady, with feet resolutely planted upon the firm foundation of Your desire, and Your love, and Your mysterious companionship, whether we believe it or not, because when we do then we can build safely and with confident exuberance. Amen*

Senator Clegg led the Pledge of Allegiance.

Senator D'Allesandro is excused for the day.

**INTRODUCTION OF GUESTS****HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bills sent down from the Senate:

**SB 24**, relative to disposition upon death of patient accounts in nursing homes.

**SB 221**, relative to obtaining a driver's license and creating a violation for failure to pay a highway toll.

**SB 255**, establishing a committee to study the funding necessary to operate the hazardous materials program in New Hampshire.

**SB 265**, relative to workers' compensation requirements for out-of-state employers and employees.

**SB 273**, relative to reasonable accommodations for employees with disabilities.

**SB 318-FN**, relative to the use of deadly force to protect oneself.

**SB 335**, relative to funds of the department of resources and economic development used for snowmobile trail grooming equipment.

**SB 348**, prohibiting the taking of arms and ammunition in a declared state of emergency.

**SB 369**, relative to portability, availability, and renewability of health coverage.

**SB 370-FN**, relative to multidisciplinary child protection teams.

**SB 382**, relative to the guardian ad litem board.

**SB 405**, relative to the acceptance of certain tax-sheltered funds by the Manchester employees' contributory retirement system.

### HOUSE MESSAGE

The House of Representatives has voted to Lay On The Table the following entitled Bill sent down from the Senate:

**SB 354-FN**, requiring security officers of the New Hampshire hospital security force to be fully certified as police officers and including such security officers in group II of the New Hampshire retirement system.

### HOUSE MESSAGE

The House of Representatives has referred for Interim Study the following entitled Bills sent down from the Senate:

**SB 253**, relative to enforcement of support orders for college and post-secondary educational expenses.

**SB 267**, relative to the definition of employee and clarifying the criteria for exempting workers from employee status.

**SB 355-FN**, relative to unlawful possession of alcohol by a minor.

### HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bills sent down from the Senate:

**CACR 44**, relating to limits on the taking of private property. Providing that a person's property shall not be taken by eminent domain if the taking is for private use.

**SB 26**, requiring identification to obtain a ballot.

**SB 230**, relative to the qualifications and liability of the medical director responsible for utilization review under the managed care law.

**SB 241**, allowing municipalities to exclude certain retirement assets from consideration in qualifying for the elderly property tax exemption.

**SB 242**, prohibiting a person charged with unlawfully killing a decedent from taking from the decedent's estate.

**SB 271**, relative to the availability of voter checklist information.

**SB 298-FN**, relative to motor vehicle fines.

**SB 314-FN-L**, establishing minimum renewable standards for energy portfolios.

**SB 345**, relative to lobbyist registration requirements.

**SB 351-FN**, declaring drowning as cruelty to animals.

**SB 398-FN**, relative to political contributions and expenditures.

### **SUSPENSION OF THE RULES**

Senator Clegg moved that we suspend all rules necessary to allow the consideration of House Bill 2006 the 10-year Highway Plan to be taken up at the next regular session.

**Adopted by the necessary 2/3 vote.**

### **COMMITTEE REPORTS**

**HB 627-FN**, relative to including persons 17 years old in the juvenile justice system. Finance Committee. Ought to pass, Vote 8-0. Senator Clegg for the committee.

SENATOR CLEGG: Thank you, Mr. President. I move House Bill 627-FN ought to pass. The bill changes the age of majority from eighteen to seventeen years old for those youth who are already in the court's jurisdiction prior to the minors 17<sup>th</sup> birthday. Programs are already available within the juvenile system and are aimed at rehabilitation and prevention. Juvenile probation and parole officers have smaller caseloads and check on their charges each evening. While getting tough on crime is thought to be the best approach in dealing with teens, research supports that juveniles do better when not sentenced to adult prisons. This legislation would not affect teens who commit serious, major crimes. The fiscal impact is indeterminable since it cannot be predicted as to how many juveniles the court will send to these facilities. Please support the Finance Committee recommendation of ought to pass.

**Adopted.**

**Ordered to third reading.**

**HB 645-FN**, relative to fire-safer cigarettes. Finance Committee. Ought to pass with amendment, Vote 6-2. Senator Morse for the committee.

**Sen. Morse, Dist. 22**

**April 24, 2006**

**2006-1979s**

**05/04**

### **Amendment to HB 645-FN**

Amend the title of the bill by replacing it with the following:

AN ACT relative to reduced cigarette ignition propensity.

Amend the bill by replacing all after the enacting clause with the following:

339-F:1 Definitions. In this chapter:

I. "Agent" means any person licensed by the department of revenue administration to purchase and affix adhesive or meter stamps on packages of cigarettes.

II. "Cigarette" means any roll for smoking made wholly or in part of tobacco, and wrapped in any material except tobacco.

III. "Commissioner" means the commissioner of safety.

IV. "Manufacturer" means:

(a) Any entity which manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that such manufacturer intends to be sold in the state, including cigarettes intended to be sold in the United States through an importer; or

(b) The first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or

(c) Any entity which becomes a successor of an entity described in subparagraph (a) or (b).

V. "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall 95 percent of the time.

VI. "Retailer" means any person who sells tobacco products to consumers, and any vending machine in which tobacco products are sold.

VII. "Sale" or "sell" means any transfer, whether by bargain, gift, exchange, barter, or otherwise.

VIII. "Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment related problems do not affect the results of the testing. This program ensures that the testing repeatability remains within the required repeatability values stated in RSA 339-F:3, V for all test trials used to certify cigarettes in accordance with this chapter.

IX. "Vending machine operator" means any person operating one or more tobacco vending machines on property or premises other than his or her own.

X. "Wholesaler" means any person doing business in this state who shall purchase all of his or her unstamped tobacco products directly from a licensed manufacturer, and who shall sell all of his or her products to licensed wholesalers, subjobbers, vending machine operators, retailers, and those persons exempt from the tobacco tax under RSA 78:7-b.

339-F:2 General Requirements.

I. On and after October 1, 2007, no cigarettes shall be sold or offered for sale in this state unless:

(a) The cigarettes have been tested in accordance with the test method prescribed in RSA 339-F:3.

(b) The cigarettes meet the performance standard specified in RSA 339-F:4.

(c) A written certification has been filed by the manufacturer with the commissioner and the New Hampshire department of justice in accordance with RSA 339-F:6.

(d) The cigarettes are marked in accordance with RSA 339-F:8.

II. Nothing in this chapter shall prohibit wholesalers or retailers from selling their inventory of cigarettes existing on October 1, 2007, provided that such wholesaler or retailer can establish that tax stamps were affixed to such cigarettes pursuant to RSA 78 prior to October 1, 2007, and provided further that such wholesaler or retailer can establish that such inventory was purchased prior to October 1, 2007 in comparable quantity to the inventory purchased during the same 12-month period of the prior year.

III. Consistent with RSA 78:14-a, nothing in this chapter shall be construed to prohibit any person or entity from selling or offering for sale

cigarettes that have not been certified by the manufacturer in accordance with RSA 339-F:6 if such cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States.

IV. No person shall sell tobacco products through a vending machine in violation of this chapter.

339-F:3 Test Method.

I. Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials ("ASTM") standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes." The commissioner may adopt a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes upon a finding that the subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the performance standard in RSA 339-F:4.

II. Testing shall be conducted on 10 layers of filter paper.

III. Forty replicate tests shall comprise a complete test trial for each cigarette tested.

IV. The performance standard required by RSA 339-F:4 shall only be applied to a complete test trial.

V. Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure that will determine the repeatability of the testing results. The repeatability value shall be no greater than 0.19 pursuant to RSA 339-F:4.

VI. This section does not require additional testing if cigarettes are tested consistent with this chapter for any other purpose.

339-F:4 Performance Standard.

I. When tested in accordance with RSA 339-F:3, no more than 25 percent of the cigarettes tested in a test trial shall exhibit full length burns.

II. Each cigarette listed in a certification submitted pursuant to RSA 339-F:6 that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in paragraph I shall have at least 2 nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least 15 millimeters from the lighting end of the cigarette. For cigarettes on which the bands are positioned by design, there shall be at least 2 bands fully located at least 15 millimeters from the lighting end and 10 millimeters from the filter end of the tobacco column, or 10 millimeters from the labeled end of the tobacco column for non-filtered cigarettes.

III. The manufacturer of a cigarette that the commissioner determines cannot be tested in accordance with the test method prescribed in RSA 339-F:3 shall propose a test method and performance standard for such cigarette to the commissioner. Upon approval of the proposed test method and a determination by the commissioner that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in paragraph I, the manufacturer may employ such test method and performance standard to certify such cigarette pursuant to RSA 339-F:6. If another state has enacted reduced cigarette ignition propensity standards, or similar requirements, that include a test method and performance standard for cigarettes, and if officials responsible for implementing those requirements have approved a manufacturer's proposed alternative test method and performance standard for a particular



cigarette under a legal provision comparable to this paragraph, that manufacturer may employ that alternative test method and performance standard to certify that cigarette in this state, provided that the manufacturer obtains the approval of the commissioner, which shall not be unreasonably withheld. All other applicable requirements of this chapter shall apply to such manufacturer.

IV. This chapter shall be implemented in accordance with the substance of the New York Fire Safety Standards for Cigarettes, as amended.

339-F:5 Test Data. In order to ensure compliance with the performance standard specified in RSA 339-F:4, data from testing conducted by manufacturers to comply with this performance standard shall be kept on file by such manufacturers for a period of 3 years and shall be sent to the commissioner upon its request and to the department of justice upon its request.

RSA 339-F:6 Certification.

I. Each manufacturer shall submit a written certification attesting that each cigarette listed in the certification has been tested in accordance with RSA 339-F:3 and meets the performance standard set forth in RSA 339-F:4.

II. Each cigarette listed in the certification shall be described with the following information:

- (a) Brand (i.e., the trade name on the package).
- (b) Style (i.e., light, ultra light).
- (c) Length in millimeters.
- (d) Circumference in millimeters.
- (e) Flavor (i.e., menthol, chocolate), if applicable.
- (f) Filter or non-filter.
- (g) Package description (i.e., soft pack, box).
- (h) Marking approved in accordance with RSA 339-F:8.

III. Each cigarette certified under this section shall be re-certified every 3 years.

339-F:7 Notification of Certification. Manufacturers certifying cigarettes in accordance with RSA 339-F:6 shall provide a copy of such certifications to all wholesalers and agents to which they sell cigarettes and also shall provide sufficient copies of an illustration of the cigarette packaging marking utilized by the manufacturer pursuant to RSA 339-F:8 for each retailer to which the wholesalers and agents sell cigarettes. Wholesalers and agents shall provide a copy of these cigarette packaging markings received from manufacturers to all retailers to which they sell cigarettes. Wholesalers, agents, and retailers shall permit the commissioner, the commissioner's designee, any law enforcement official, any fire chief, or any fire chief's designee to inspect markings of cigarette packaging marked in accordance with RSA 339-F:8.

339-F:8 Marking of Cigarette Packaging.

I. Cigarettes which have been certified by a manufacturer in accordance with RSA 339-F:6 shall be marked to indicate compliance with the requirements of this chapter. Such marking shall be in 8 point type or larger and consist of :

(a) Modification of the UPC to include a visible mark printed at or around the area of the UPC. Such mark may consist of alphanumeric or symbolic character permanently stamped, engraved, embossed, or printed in conjunction with the UPC.

(b) Any visible combination of alphanumeric or symbolic character permanently stamped, engraved, or embossed upon the cigarette package or cellophane wrap; or

(c) Printed, stamped, engraved, or embossed text that indicates that the cigarettes meet the standards of this chapter.

II. A manufacturer shall use only one marking, and shall apply this marking uniformly for all packages, including but not limited to packs, cartons, and cases, and brands marketed by that manufacturer.

III. The manufacturer shall notify the commissioner of the selected marking.

IV. Prior to the certification of any cigarette, a manufacturer shall present its proposed marking to the commissioner for approval. Upon receipt of the request, the commissioner shall approve or disapprove the marking offered. A marking in use and approved for the sale of cigarettes in the state of New York shall be deemed approved. Proposed markings shall be deemed approved if the commissioner fails to act within 10 business days of receiving a request for approval.

V. No manufacturer shall modify its approved marking unless the modification has been approved by the commissioner in accordance with this section.

#### 339-F:9 Penalties.

I. Any wholesaler, agent, or other person or entity who knowingly sells cigarettes wholesale in violation of RSA 339-F:2, I(c) shall be subject to a civil penalty not to exceed \$10,000 for each sale. Any retailer who knowingly sells cigarettes in violation of RSA 339-F:2 shall be subject to the following:

(a) A civil penalty not to exceed \$500 for each sale or offer for sale of such cigarettes if the total number of cigarettes sold or offered for sale in such sale does not exceed 1,000 cigarettes.

(b) A civil penalty not to exceed \$1,000 for each sale or offer for sale of such cigarettes if the total number of cigarettes sold or offered for sale in such sale exceeds 1,000 cigarettes.

II. In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to RSA 339-F:6 shall be subject to a civil penalty not to exceed \$10,000 for each such false certification.

III. Notwithstanding RSA 617, any cigarette sold, offered for sale, or possessed for sale in this state, in violation of RSA 339-F:2 shall be contraband under RSA 78:16 and shall be subject to seizure and forfeiture. All cigarettes seized and forfeited shall be destroyed and not resold.

339-F:10 Enforcement. To enforce the provisions of this chapter, the department of justice may bring an action on behalf of the people of this state to enjoin acts in violation of this chapter and to recover civil penalties authorized under RSA 339-F:9.

339-F:11 Administration. The commissioner shall be responsible for administering the provisions of this chapter.

2 Preemption. This act shall be repealed if federal fire safety standards for cigarettes that preempt this act are enacted and take effect after October 1, 2007 and the commissioner so notifies the secretary of state and director of legislative services.

3 Effective Date. This act shall take effect October 1, 2007.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 645 ought to pass with amendment. The committee amendment is the result of an agreement among several parties. The amendment puts existing rules into statute and eliminates the...any changes criminal penalties to civil penalties. It allows for preemption of federal law, which would allow for one national standard for fire-safe cigarettes. A similar law has

been in effect in New York since 2004. The committee heard testimony that there have been no significant changes in the long-term trend of sales, prices, and tax revenues in New York since fire-safe cigarettes have been sold. Sales trends in border states were not affected either. Based on New York's experiment...experience, there should be no significant impact on New Hampshire's tobacco tax revenue due to the introduction of fire-safe cigarettes. The Finance Committee asks for your support on the motion of ought to pass as amended.

**Amendment adopted.**

Senator Morse offered a floor amendment.

Sen. Morse, Dist. 22

**May 3, 2006**

**2006-2158s**

**04/10**

**Floor Amendment to HB 645-FN**

Amend the bill by inserting the following section heading and chapter heading immediately preceding RSA 339-F:1:

1 New Chapter; Reduced Cigarette Ignition Propensity. Amend RSA by inserting after chapter 339-E the following new chapter:

**CHAPTER 339-F**

**REDUCED CIGARETTE IGNITION PROPENSITY**

Amend RSA 339-F:7 as inserted by section 1 of the bill by replacing it with the following:

339-F:7 Notification of Certification. Manufacturers certifying cigarettes in accordance with RSA 339-F:6 shall provide a copy of such certifications to all wholesalers and agents to which they sell cigarettes and also shall provide sufficient copies of an illustration of the cigarette packaging marking utilized by the manufacturer pursuant to RSA 339-F:8 for each retailer to which the wholesalers and agents sell cigarettes. Wholesalers and agents shall provide a copy of these cigarette packaging markings received from manufacturers to all retailers to which they sell cigarettes. Wholesalers and agents shall permit the commissioner or the commissioner's designee to inspect markings of cigarette packaging marked in accordance with RSA 339-F:8. Retailers shall permit the commissioner, the commissioner's designee, any law enforcement official, or any fire chief or fire chief's designee, to inspect markings of cigarette packaging marked in accordance with RSA 339-F:8.

**2006-2158s**

**AMENDED ANALYSIS**

This bill requires the department of safety to adopt rules establishing standards for reduced cigarette ignition propensity. The bill prohibits the sale of cigarettes that do not meet these standards and authorizes the department of justice to assess civil penalties for noncompliance.

SENATOR MORSE: Thank you, Mr. President. I'd like to offer amendment #2161s.

SENATOR GATSAS (In the Chair): I think you're offering 2158s.

SENATOR MORSE: Maybe I am. 2158s. Yes.

SENATOR GATSAS (In the Chair): Would you speak to your amendment as it's being passed out?

SENATOR MORSE: Thank you, Mr. President. There's two changes in this amendment. Last night we had a technical change that both parties agreed on, which had to do with notification and certification. While they were drafting that, they realized they left out a reference to the chapter and they asked that they correct that at that time. I agreed to that. OLS had left out the reference to the chapter, so this is just technical changes.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 689-FN**, relative to the jurisdiction of the New Hampshire commission for human rights over housing discrimination cases. Finance Committee. Ought to pass, Vote 8-0. Senator Larsen for the committee.

SENATOR LARSEN: Thank you, Mr. President. I move House Bill 689 ought to pass. This legislation amends state laws that address housing discrimination. These changes were recommended by the Department of...U.S. Department of HUD. The changes clarify and strengthen current statutes while aligning state law more closely with federal law. Certification will allow the New Hampshire Commission for Human Rights to work with HUD on a work share agreement. Under this agreement, HUD will increase its funding to the New Hampshire Commission, resulting in an increase of revenues. This increase in funding will allow the commission take on an increased case load and better serve the citizens of New Hampshire. The Finance Committee asks for your support on a motion of ought to pass.

**Adopted.**

**Ordered to third reading.**

**HB 1167-FN-A**, making an appropriation to the land and community heritage investment program. Finance Committee. Ought to pass with amendment, Vote 5-3. Senator Morse for the committee.

**Senate Finance**

**April 25, 2006**

**2006-2012s**

**10/04**

### **Amendment to HB 1167-FN-A**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the department of transportation pilot program for effective investment of state highway mitigation funds.

Amend the bill by replacing all after the enacting clause with the following:

1 Pilot Program; Authority Expanded. Amend 2005, 177:61 to read as follows:

177:61 Pilot Program; Department of Transportation and Land and Community Heritage Investment Program.

I. The general court hereby establishes a 2-year pilot program to ensure the most cost effective investment of state highway mitigation funds for purposes of natural, cultural, and historical resource conservation, consistent with the ~~land and community investment program under RSA 227-M~~ **permanent protection of these resources and their long-term stewardship.**

II. A committee is established to advise on the establishment of [~~a partnership~~] **partnerships** between the department of transportation and [~~the land and community heritage investment program board~~] **organizations engaged in the acquisition or stewardship of lands, and natural, cultural, and historical resources, or interests therein, of local, regional, and statewide significance**, for the administration of the pilot program. The committee shall consist of the commissioner of transportation, the executive director of the land and community heritage investment authority, 2 senators appointed by the senate president, and 2 house members, appointed by the speaker of the house of representatives.

III. Duties of the committee shall include, but not be limited to, the following:

(a) Recommending a process by which funding decisions shall be made jointly by the commissioner of transportation and the [~~land and community heritage investment program board~~] **partner organizations**.

(b) Making recommendations on the establishment of a permanent program for the investment of state mitigation funds using a joint partnership between the department of transportation and the [~~land and community heritage investment program board~~] **partner organizations**.

IV. The first meeting of the committee shall be convened within 45 days of the effective date of this act. The first meeting shall be called by the executive director of the land and community investment [~~program~~] **authority** board.

V. The committee shall report its recommendations to the president of the senate, the speaker of the house of representatives, and the governor on or before November 1, 2006.

VI. The commissioner of transportation [~~and the land and community heritage investment program board~~] shall, for the biennium ending June 30, 2007, use \$3,500,000 of funds **for mitigating highway construction impacts** currently available to the department of transportation for purposes of this pilot program, consistent with federal regulations.

2 Effective Date. This act shall take effect upon its passage.

**2006-2012s**

### AMENDED ANALYSIS

This bill authorizes the department of transportation to include organizations engaged in the acquisition or stewardship of lands, and natural, cultural, and historical resources, in the pilot program for the effective investment of state highway mitigation funds.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 1167 ought to pass with amendment. This legislation, as it's passed by the House, contained an appropriation of \$5 million in general funds to LCHIP. I have a few major reservations in continuing with that appropriation. This is not a budget year. The Senate worked very hard last year in conjunction with the House, and spent many, many hours looking very closely at the departments budgets and making tough decisions. In the end, we had a good, fair budget, with the funds we had available. The budget was approved in the Senate, it was approved by the House, and it was signed by the Governor. Given that there was roughly \$19.3 million in general fund spending, which at the appropriate time I'll explain today, that is pending in current legislation both in the House and Senate, it's not financially prudent to commit these funds at this time. I have worked with LCHIP in an effort to truly leverage available funds by coordinating with DOT properties that need to be purchased for highway mitigation purposes. I was hopeful in this relationship, and it appeared to be developing well. I was disappointed when LCHIP did not

share those sentiments. It appears that, rather than make the most of available opportunities, they continue to request general fund dollars with no strings attached. The committee amendment both increases the program spending and broadens the level of eligibility to participants to include all of the state's conservation and preservation groups. It is my belief that a partnership with DOT and conservation groups, is crucial in maximizing the dollars for the preservation of land, but is also critical for the valuable purpose of coordinating conservation efforts. It provides access to more than \$3.5 million available to DOT that was passed in the budget by allowing every dollar that is available for highway mitigation to be accessed for these conservation groups. In an effort to be fiscally responsible, and to continue the momentum towards a partnership with the Department of Transportation and land preservation efforts, please support the committee recommendation of ought to pass with amendment. Thank you.

### **Amendment adopted.**

Senator Barnes offered a floor amendment.

Sen. Barnes, Dist. 17

**May 3, 2006**

**2006-2169s**

**06/09**

### **Floor Amendment to HB 1167-FN-A**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to the department of transportation pilot program for effective investment of state highway mitigation funds and making an appropriation to the land and community heritage investment program.

Amend the bill by replacing all after section 1 with the following:

2 Appropriation; Land and Community Heritage Investment Program; Fiscal Year Ending June 30, 2006. The sum of \$250,000 is hereby appropriated to the land and community heritage investment program for the fiscal year ending June 30, 2006. This appropriation is in addition to any other funds appropriated to the land and community heritage investment program. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

3 Appropriation; Land and Community Heritage Investment Program; Fiscal Year Ending June 30, 2007. The sum of \$250,000 is hereby appropriated to the land and community heritage investment program for the fiscal year ending June 30, 2007. This appropriation is in addition to any other funds appropriated to the land and community heritage investment program. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

#### **4 Effective Date.**

I. Section 1 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect July 1, 2006.

**2006-2169s**

### **AMENDED ANALYSIS**

This bill:

I. Authorizes the department of transportation to include organizations engaged in the acquisition or stewardship of lands and natural, cultural, and historical resources in the pilot program for the effective investment of state highway funds.

II. Makes an appropriation to the land and community heritage investment program for fiscal years 2006 and 2007.

SENATOR BARNES: Thank you, Mr. President. I have a floor amendment 2169s. Could I speak to this while it's being passed out?

SENATOR GATSAS (In the Chair): Senator Barnes, you may speak to the amendment 2169s as it's being passed out.

SENATOR BARNES: Thank you, Mr. President. All this amendment does is add \$250,000 to LCHIP for the fiscal year ending June 30, 2006 and \$250,000 for the fiscal year ending June 30, 2007, for a total of \$500,000 for the two years. And I ask your support on this. I think it's a program that we should have some money in. A lot of good things have happened with it, and I think we should continue to support it in some way, any way we can. Thank you, Mr. President.

**The question is on adoption of the floor amendment.**

**A roll call was requested by Senator Barnes.**

**Seconded by Senator Clegg.**

**The following Senators voted Yes: Johnson, Burling, Green, Flanders, Odell, Roberge, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, Estabrook, Hassan, Fuller Clark.**

**The following Senators voted No: Gallus, Kenney, Boyce, Eaton, Morse.**

**Yeas: 18 - Nays: 5**

**Floor amendment adopted.**

Senator Fuller Clark offered a floor amendment.

Sen. Fuller Clark, Dist. 24

Sen. Burling, Dist. 5

Sen. Gottesman, Dist. 12

Sen. Foster, Dist. 13

Sen. Larsen, Dist. 15

Sen. Estabrook, Dist. 21

Sen. Hassan, Dist. 23

**May 3, 2006**

**2006-2168s**

**06/09**

### **Floor Amendment to HB 1167-FN-A**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to the department of transportation pilot program for effective investment of state highway mitigation funds and making an appropriation to the land and community heritage investment program.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 Appropriation; Land and Community Heritage Investment Program; Fiscal Year Ending June 30, 2007. The sum of \$1,250,000 is hereby appropriated to the land and community heritage investment program for the fiscal year ending June 30, 2007. This appropriation is in addition to any other funds appropriated to the land and community heritage investment program. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

**2006-2168s****AMENDED ANALYSIS**

This bill authorizes the department of transportation to include organizations engaged in the acquisition or stewardship of lands, and natural, cultural, and historical resources, in the pilot program for the effective investment of state highway mitigation funds and makes an appropriation to the land and community heritage investment program for fiscal year 2007.

SENATOR FULLER CLARK: Thank you very much, Mr. President. I have an amendment. It is to House Bill 16...1167. It is amendment 2168.

SENATOR GATSAS (In the Chair): And, you'll speak to it as it's being passed out?

SENATOR FULLER CLARK: I will.

SENATOR GATSAS (In the Chair): Thank you.

SENATOR FULLER CLARK: This amendment actually calls for a more reasonable funding of LCHIP at the sum of \$1,250,000 for this year and the next year. That's the total funding. It would allow LCHIP to have a million dollars for this year and a million dollars for next year since they currently have \$750,000 to be able to fund the twelve top projects on their current priority list, to partially fund them. And, they are from the communities of Deerfield, Exeter, Greenland, Hopkinton, Lempster, New Durham, Nottingham, Portsmouth, Salem, Sandown, Stoddard and Temple. And I'm here today to say simply I think the debate that we're having is, should we be putting a reasonable sum of money to allow the LCHIP program to go forward while it continues to work with the solution that was brought forward by Senator Morse and the DOT and now has been opened up to other conservation groups? One of the issues with the DOT program is just simply the issue of timeliness. That in many cases, you're not able to access those dollars immediately for critical projects if they're going to be saved and funded today. I think, and I would urge you to allow the successful program to be able to go forward at a meaningful level to support the most essential projects that have been selected by LCHIP and I thank you very much for your consideration, and I urge your support of this amendment. Thank you.

SENATOR BARNES: Thank you, Mr. President. Senator Fuller Clark?

SENATOR FULLER CLARK: Yes.

SENATOR BARNES: With the amendment that we just passed, that's going to send this bill back to the House for a Committee of Conference. And don't you feel that that might be a good place for further discussion as far as the funding goes?

SENATOR FULLER CLARK: Thank you very much, Senator Barnes. I do feel that there is going to be an important discussion that will take place between the House and the Senate, but I also think it's important that we send a message to the House that there should be a reasonable base level of support for this program. And I'd like to add that, in reviewing of the dollars that we have available, it seems that there would be the money available for this modest baseline. Also given the fact that we're talking about trying to move some additional projects out of the general fund, and to have them funded under the Education Trust Fund since we know that the House will not take that surplus and move it over to the general fund. So I just wanted to let everyone know that there are the dollars there to be able to do this at the level that I have proposed. Thank you.



SENATOR BARNES: Follow up question, Senator Clark. Follow up question?

SENATOR FULLER CLARK: Certainly.

SENATOR BARNES: Thank you. Would you believe, I know you're very passionate about this LCHIP as are many other members in this body? Would you believe that at Committee of Conference, I've got a hunch that you'll be in that room sticking up for your favorite program?

SENATOR FULLER CLARK: I thank you very much, Senator Barnes. I know that you can't make that promise, but I appreciate your support.

SENATOR MORSE: Thank you, Mr. President. If you feel it's appropriate at this time, I'd like to hand out a document that I've copied, because it's going to be...all the debates we have today are going to be based on this document.

SENATOR GATSAS (In the Chair): You may pass that document out, 'cause we might as well have it in front of us while we have the discussion.

SENATOR MORSE: I'd like to speak, Mr. President.

SENATOR GATSAS (In the Chair): Certainly. Go ahead.

SENATOR MORSE: If you go to the last page of this document, and actually...

SENATOR GATSAS (In the Chair): Wait until they all have it Senator, so that there is a specific reference to where you are.

SENATOR MORSE: Okay. If you go to page 11 of this document. LBA has been sticking with us in Finance and with the House. And basically, on page 11, under "General Funds", we've spent \$19 million. Senator D'Allesandro's away so I did ask the House to come over and speak to me about the article I saw in the newspaper and about how rosy we are in revenues. We were told in Finance as we voted, that we had \$13.5 million in general funds, and about \$7.5 million in education trust funds. But, we've spent \$19 million. That increase that we had the other day was probably about \$600,000 in general funds, Norm Majors said. And maybe another \$600,000 in the Educational Trust Fund. So, while I won't recommend that you shuffle the deck on those two funds today, you've overspent this fund by \$5 million. I don't look at the belief in LCHIP as anything to do with this vote. I've had my discussions with them. I think we can work in the future. This vote is truly about spending what you don't have. If you follow the rest of the legislation that we have in this document, I'll speak to this document every time we get to 1608, 1710. It's all the same. We chose priorities. We chose funding those that needed it. And that's what it comes down to on this legislation. Thank you, Mr. President.

SENATOR EATON: Thank you. I just voted against the half a million dollars a year for LCHIP. I will be voting against this new amendment. I want to make it clear on the record this is not a vote against LCHIP. I was here in the Senate when we appropriated the first \$12 million towards LCHIP. I would like to echo many of the comments that Senator Morse, the chairman of our Finance Committee, made. We went through hours and hours and hours last year on the Finance Committee, and came to the agreement. Senator Morse put together quite a nice pilot program to see how this would work with DOT. That has not played out yet. They also had \$1.5 million of general fund. So I look at this as

kind of a second bite at the apple in the middle of a session year, the budget's been done for some time now. And I think, with the sheets that we just had put in front of us, it shows where we are possibly in the red.

SENATOR FOSTER: Senator Morse, if you would yield? I'm not on the Finance Committee so I don't have as much up-to-date information as you do. But I wondered if you could just answer this. When we talk about spending \$19 million, is that what the Senate has committed or that the House has committed, or is it the total amount together?

SENATOR MORSE: That's the total of both bodies. The Finance chair in the House and I have been working together the last two weeks to make sure there were accounting for both things. The only duplication would be on legislation that they passed yesterday, but that doesn't show up in this document.

SENATOR FOSTER: Follow up? And, of that \$19 million, how much has both of the bodies agreed to? In other words, if there's \$1 million on a particular bill, has the House also agreed to \$1 million, so we kind of have a sense that that will make it's way through?

SENATOR MORSE: I have a pretty good sense that what's in there now, besides what's being offered on an amendment later today, which financially, I don't know what that amendment was, but a pretty good sense that we're pretty close in spending. Don't forget, when we came in here last time, the spending levels were at \$31.5 between both bodies. To get to \$19 million was a struggle.

SENATOR FOSTER: Follow up? The reason I asked the question is, when I've looked at this, at least yesterday, there was certain stuff we've spent money on, and they haven't yet agreed to it. So I was wondering why we shouldn't be putting what our priorities are down, understanding that there's going to be a process of compromise inevitably anyway.

SENATOR MORSE: If that was a question, I think that's exactly what the Senate is trying to do. Is trying to put our priorities first. Knowing that we have to get to \$13 million, we put our priorities right now at \$19 million. To do what you're asking to do, you're going above and beyond that, and financially we can't get there. If you want to spend every last penny, the one thing this document does not account for on the education side, on House Bill 76, I believe, there's about \$2.3 million that needs to be accounted for on the \$7.5 million. It doesn't show up in this document. I haven't had time to chase that. But the fact is, that would mean that that account got lowered also. So you basically spent every last dollar you have, and I think spending beyond that would be saying that the Senate's going to find new revenues, and I don't believe that that's what Ways and Means intended to do.

SENATOR FOSTER: One more follow up if I might, Mr. President? However, isn't what happened here certain bills have hit this body in a particular order and others are coming over later on, and we may well end up with numbers greater than what we can to spend, and we may have to, as a body, decide to adjust that. But when something comes forth that is important to the body, do you think it's appropriate for us as a group, to indicate our support for it and understanding that, in the process near the end, that we may have to reprioritize or cut down on certain items?

SENATOR MORSE: I think we are prioritizing. That's what we've done in the last two weeks in the Senate. The House's position is not affordable. The House's position is to spend \$5 million on this piece of legisla-

tion. We cannot afford to do that. So the Senate will become the bad guys, but the fact is, you have to live within your means. That's what this legislation is all about. It is not about LCHIP. It only became about LCHIP when we discussed my amendment because of their work ethic. That's it. Since then, they've at least made the effort to reach out and try to make that work. Maybe we will. But the fact is, this is about the Senate living within its means. And we're right about at that point right now, if we do nothing else today. But I'm sure we'll be doing something else as we talk. But the fact is, we haven't overspent at this point in time, based on the two accounts.

SENATOR FOSTER: And I'm sure we will be doing some things, some of which things I probably won't agree with, but you might. Thank you, Mr. President.

SENATOR CLEGG: Question of Senator Morse. Senator Morse, we're talking about priorities, and if I'm not mistaken, the day that the House passed this bill, wasn't there also a bill for \$6 million to pay the increased cost of energy for state buildings and they killed that bill? So their priorities are a little strange.

SENATOR MORSE: Senator Clegg, I don't understand how they could be faced with the necessary needs of voting for what the departments needed - \$4.8 million. They can vote against that, and fund LCHIP in the same votes. They funded LCHIP at \$5 million and voted against the needs. My guess is there was a plan that the Senate would have to move and do what they wanted, and that shouldn't be. We should be building our own budget. We are. And that's where we are right now. We're pretty much in-step with spending what we have.

SENATOR CLEGG: Thank you, Senator.

SENATOR BOYCE: Thank you, Mr. President. I rise in opposition to this amendment and that should be no surprise to anybody. I didn't come here to find new ways to spend the taxpayers' money. I didn't come here to find new taxes to lay on the people in order to fund more spending. We frankly don't have the money. This was described as a modest, moderate, amount of money. A million here, a million there. Pretty soon it adds up to real money, I've heard. I heard that somebody in Washington once said it, but now it's of course billions down there. We tend to, we seem to be falling into the trap that the federal legislators have fallen into, and that is what can I get from all the taxpayers and funnel it into my district? How can I get more money in my district? In Congress, they call it "earmarks". Here we call it, "you've got to do it for me. It's such a good thing. My people need this. My people are suffering. My people need more money." We don't have it! The taxpayers don't have it! Unless we want to raise taxes, we need to vote no once in a while on spending. This is nothing but a spending bill. We voted last year in the budget not to put more money into this line. Well, they came back and said, oh, we need more money. Sure, they need more money. Kindergarten aid needs more money. Breakfast program in the school needs more money. Everybody needs more money. I need more money. I think \$100 a year, we probably all need more money! Thank you. You know, if I thought that there was some chance of it ever passing, I might actually amend the Constitution to just take out the \$100 and do it for free. Thank you.

SENATOR JOHNSON: Thank you, Mr. President. I'll try to be brief. I want to thank Senator Morse and the Finance Committee for all of the time they've spent on this issue. I think there has been some communi-

cation on both sides that probably could've ended up with a better tone, and I think that will happen in the next session. But I did a little homework and, in doing that homework, I can assure you that every person in this body here, has benefited from LCHIP, and will continue to benefit. And I look at it as an economic development issue. And in my district, I've got the gateway coming up Route 3; I've got the gateway on 25, that was participated in by LCHIP. I talked to one of the principles on 25, as early as...as late as yesterday. He has a development there, eighty-five acres which LCHIP participated in, and I can assure you that, if that had not taken place, there would be a strip mall on that property today. So I think we all ought to think about that, and if we're really going to conserve some land in the state of New Hampshire more than we are now, which is around 17 percent, we should pay attention to LCHIP and make sure at sometime we're going to give it decent funding so they can get the job done. Thank you.

SENATOR BRAGDON: Thank you, Mr. President. I move the question.

SENATOR GATSAS (In the Chair): I have two more speakers. Senator Larsen, Senator Hassan.

SENATOR LARSEN: Thank you, Mr. President. Coming around to you are itemized lists of how LCHIP has benefited your district and the projects that in fact, if we fund it, will benefit your districts. We are not talking about earmarks. We're not talking about anything other than preserving that which we believe represents New Hampshire best. We know that there is heavy development pressure in our state. We know that, as we put off saving some of the most important landmarks and special places in New Hampshire, we never again retrieve those. A mountainside that is filled with five-acre home development sites can never be returned to the vista that everyone thought represented their part of New Hampshire. We know that, if we can find adequate funding for LCHIP and \$250,000 that we just passed, is not adequate. If you look at any of these projects that are on the priority list, the project for Salem is \$1 million at the Dustin Farm. The project for Sandown Porter Farm is \$250,000. The Robb Reservoir in Stoddard is \$500,000. Temple Mountain is \$200,000. Those are just some of which we know will, in one instance of funding, use up what everyone just voted for at the \$250,000 level. LCHIP has worked well in finding those propriety districts. They've identified the top twenty-five projects for 2006 and it totaled \$6.7 million. The issue today before you is, can we bump it up above the \$250,000 and afford it? And I would argue that we can. One way we can do it is for you to support an amendment which I will bring in attached to two bills. The Education Trust Fund has \$7 million. There are two spending bills in your list, this long legal list of spending, that could be used. The Education Funds could be used to pay for these education projects. One is kindergarten construction aid and one is the million dollars that we have allocated for this year's shortfall in school building aid. If you were to vote for that, you would be fiscally responsible. You would be freeing up a million dollars in general funds, \$1.8 by my calculation, and, you would be freeing up enough general funds to pay for LCHIP and not imbalance even Senator Morse's efforts to balance a budget. As everyone knows, when we go to Conference Committee, we are still juggling numbers, we are still juggling what this state can afford. You can vote for this amendment and be fiscally responsible in balancing a budget. This is the year that we need to fund LCHIP, and I urge you to think about, vote for that

Education Trust Fund shift. We can pay for LCHIP. We can do right by LCHIP. We are not adopting the House's \$5 million which we know could cause some problems, because it's not the kind of money that we have at this point. But, we can afford to do the amendment that you have before you. And I urge you to look at your district and say, some of those projects are ones that you want to see be there for the next generation. Thank you.

SENATOR MORSE: Thank you. Two questions, Mr. President. The first question is, Senator Larsen, would you believe that the spending level total between the two accounts is about \$21,300,000 of total dollars between the two accounts is somewhere around \$21.5?

SENATOR LARSEN: Are you reading from the "Totals Page" on the back of this?

SENATOR MORSE: I'm not reading from anything. Those are the dollars that the Ways and Means Chairmen have both given me to tell me what level of spending Finance can do.

SENATOR LARSEN: I have not been given those numbers, but I'll trust your numbers.

SENATOR MORSE: My second question, and just the answer to the first question is, those are the numbers. My second question is: Is LCHIP or are you suggesting, because this document is specific to District 22, that Salem on Dustin Farm is going to get \$1 million?

SENATOR LARSEN: Salem is identified as a high priority program. I think the highlighted items are those which LCHIP has identified would be paid first. And obviously, Salem's \$1 million project would use up this, even most of what we would vote on at this moment. But as I think you, I don't know your project at Dustin Farm, I haven't seen it, but I do know, for example, how precious Gould Hill is in Hopkinton, and if that were to be sold, and it would go from an orchard with a view of the White Mountains, to a high-end homes. I think it would be a tragic loss for a lot of what brings tourism to New Hampshire.

SENATOR BURLING: Thank you, Mr. President. Thank you for yielding. Is it not the **TAPE CHANGE** House Bills with an appropriations. And you correctly pointed out that one of the areas we focused on was the Education Trust Fund. Was it not also the case that the chairman of the Ways and Means Committee pointed out that House Bill 1767, the \$2.8 million for acquiring real estate in Alstead, was basically going to be paid for out of, I think it was turnpike funds, wasn't it? It was going to be \$500,000 that's direct and then the balance of that, \$2.3 million was, in essence, going to be borrowed from the turnpike fund? So these aren't general fund monies at all. Was that not what we were told?

SENATOR LARSEN: My recollection is that a large portion of dollars was going to come from the Highway Trust Fund, I mean from the turnpike funds or highway funds. In essence, there were right-of-ways that were going to be used, that could be used to purchase and offset general funds. And my recollection was that it was a large amount of money, and I can't pull that number out of my head at this point.

SENATOR BURLING: Which gets me to my real question, Senator. If what we were told is correct, is it not the case that, even within this document, there are millions of dollars available to meet different priorities? And if we, in the minority party, have slightly different priorities, this is the only chance we get to talk about them?

SENATOR LARSEN: That's correct. There's also the issue on the front page of Senate Bill 228, which is the emergency home heating assistance. The \$10 million we allocated is likely to be repaid. I don't know if we have the dollars in hand, but there is a the likelihood that that is a repaid from federal funds, and so all of this is in flux, and I think that we go to Conference Committee with a strong vote for LCHIP and we send the message that we want to do, we want to support a program that we know is important to this state and we can do it, as well as take care of those with human service needs.

SENATOR MORSE: To speak. Would you believe. A question of Senator Larsen. Senator Larsen, would you believe, and I know the numbers are flying fast and furious, the \$10 million is accounted for in this document? We've taken that legislation and repealed it with what we've done. We didn't spend the \$10 million, so we repealed that legislation. Also, the Senate, in Finance, made a decision that the Senate was going to use real dollars because they didn't like the Alstead, which we'll debate that when we get that. So they wanted to fund it in cash. They don't believe we should set a precedent, but on the same token, we made decisions as a Senate to bond ERP stuff that we have in here right now. We could have just easily been a cash thing and drove up the cash spending if that's what we're being accused of. Would you believe that? And would you further believe that this is a \$4 million project in my town with a \$4 billion tax base, they're being offered \$100,000 from LCHIP, that's what I was told, and quite frankly, the five projects that we sent up to LCHIP was the doing of this Senate putting in the program that we did last year, which I wrote to every Senator to get involved with, and, towns sent out new projects to LCHIP, and quite frankly, I was used, and in January, would you believe, that my town was called up and it was voted on, which it is a good project, but on a \$4 billion tax base, \$100,000 will do nothing for this project?

SENATOR LARSEN: Well I suspect that the reason you had a \$100,000 was because LCHIP was so short of funds it couldn't provide an adequate level, and it offered a token amount because it believed it was an important project, with the limited dollars that LCHIP has. So that's one thing I would believe. I also believe that this document is still in flux and that it is not set in stone, and if you believe that LCHIP should be funded and that we need to go into Conference Committee with something more than a token amount that will accomplish little, we need to pass the amendment that you have before you.

SENATOR CLEGG: Of Senator Morse. Senator Morse, were you on Finance the year that we offered LCHIP \$25 million to start a revolving low interest fund and they refused it?

SENATOR MORSE: No, but I heard of the efforts, and things like that, I do believe, need to be discussed in the future.

SENATOR CLEGG: Thank you.

SENATOR HASSAN: Thank you, Mr. President. You know, my father always told me, "You get what you pay for". In Exeter, we have the Folsom Tavern. A project of Folsom Tavern is associated with the American Independence Museum located at the Gilman House, which was the birthplace, according to local historians, of the Republican Party of the United States. The Folsom Tavern has been the subject of a private fundraising effort in Exeter. It has been refurbished, it has been moved. And it is directly across the street from at least three or four restaurants, multiple

real estate offices, a toy store, a book store. When people come to visit the American Independence Museum and the Folsom Tavern, our businesses in downtown Exeter do very well, and the state's tax revenue benefits as well. Slightly further along in my district, a little bit north, in Newfields and Newmarket, the Piscassic Greenway has been preserved with a private fundraising effort of over \$7 million to preserve what otherwise would be developed into something like eighty or ninety different two-acre lots. That greenway will be preserved and is on the LCHIP list for \$750,000 as a funding need where the communities have come up with ten times that in private fundraising. The picture in my district is a picture of the American Independence Museum, the Folsom Tavern, a vibrant downtown that brings revenue back to the state and to the local community, and beautiful, natural preserves for our citizens as well, all within one senate district. This is the picture of New Hampshire that is dear to all of us. It is a picture of New Hampshire that is critical to our character. It is the picture of New Hampshire that it is very critical and dear to my senate district, and it is the picture of New Hampshire that makes us one of the most popular places to live. We have to invest in New Hampshire. We have to invest in our character, not only in our open space, but in our historic and cultural treasures in order to preserve who we are. LCHIP is about investment. It's not about silly pork barrel spending. It's about the very essence of who we are as a state. And to repeat what my father told me, "You get what you pay for in life". This is a very reasonable and important investment. I urge people to support this amendment. Thank you.

**The question is on adoption of the floor amendment.**

**A roll call was requested by Senator Fuller Clark.**

**Seconded by Senator Clegg.**

**The following Senators voted Yes: Johnson, Burling, Odell, Roberge, Gottesman, Foster, Larsen, Martel, Estabrook, Hassan, Fuller Clark.**

**The following Senators voted No: Gallus, Kenney, Boyce, Green, Flanders, Eaton, Bragdon, Clegg, Gatsas, Barnes, Letourneau, Morse.**

**Yeas: 11 - Nays: 12**

**Floor amendment failed.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

SENATOR LARSEN (Rule #44): Mr. President, a moment for personal privilege. I simply want to rise to point out to the public and to ask for this Senate to recognize the absence of Senator D'Allesandro today. He is an excused absence, and, as everyone knows, I think, he's attending a family engagement, and he wishes he were here. But I know I wanted it on the record that he has an excused absence for all future roll calls.

SENATOR GATSAS (In the Chair): To see his granddaughter. His new granddaughter.

SENATOR LARSEN: Yes.

**HB 1241-FN-L**, extending the kindergarten construction aid program. Finance Committee. Ought to pass with amendment, Vote 8-0. Senator Morse for the committee.

**Senate Finance**  
**April 24, 2006**  
**2006-1989s**  
**04/05**

**Amendment to HB 1241-FN-LOCAL**

Amend the bill by deleting sections 1-2 and renumbering the original sections 3-5 to read 1-3, respectively.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 1241 ought to pass with amendment. The Finance Committee amendment removes the additional appropriation for kindergarten construction aid, but maintains the extension of the program until 2008. There have been changes in requests for kindergarten construction since the bill was originally submitted in the House. Additionally, the appropriation was submitted in this legislation although it had not been requested for by any of the towns. The intent is to allow municipalities to construct kindergartens and, if the balance at the Department of Education is insufficient, they can always come back to ask the legislature for funds as they are needed. The Finance Committee asks for your support of the motion of ought to pass with amendment.

SENATOR GATSAS (In the Chair): I have been corrected. It's not a baby girl; it was a baby boy whose name is Dominick. So, I apologize.

**The question is on the adoption of the committee amendment.**

**A roll call was requested by Senator Letourneau.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: None.**

**Yeas: 22 - Nays: 0**

**Amendment adopted.**

Senator Bragdon (Rule #42).

Senator Larsen offered a floor amendment.

Sen. Larsen, Dist. 15

**May 2, 2006**  
**2006-2117s**  
**04/10**

**Floor Amendment to HB 1241-FN-LOCAL**

Amend the bill by replacing all after the enacting clause with the following:

1 Kindergarten Construction Program; Appropriation Amended. Amend 1997, 348:6 as amended by 2001, 287:3, and 2005, 164:1 to read as follows: 348:6 Appropriation; Kindergarten Construction. A sum not to exceed [~~\$29,500,000~~] **\$31,220,194** is hereby appropriated to the department of education for the purposes of constructing kindergarten classrooms. This appropriation shall be nonlapsing and in addition to any other appropriation to the department of education; provided, however, that the department of education shall not approve grant requests for such purposes for more than:



- I. \$6,000,000 in the biennium ending June 30, 1999.
- II. \$5,000,000 in the fiscal year ending June 30, 2000.
- III. \$5,000,000 in the fiscal year ending June 30, 2001.
- IV. \$6,500,000 in the fiscal year ending June 30, 2002.
- V. \$2,000,000 in the fiscal year ending June 30, 2003.
- VI. \$4,000,000 in the fiscal year ending June 30, 2004.
- VII. \$1,000,000 in the fiscal year ending June 30, 2006.
- VIII. \$860,097 in the fiscal year ending June 30, 2007.**
- IX. \$860,097 in the fiscal year ending June 30, 2008.**

***The sums in paragraphs VIII and IX shall be a charge against the education trust fund established pursuant to RSA 198:39.***

2 Kindergarten Construction Program; Bonding Amount Amended. Amend 1997, 348:7 as amended by 1997, 351:56; 2001, 287:4; and 2005, 164:2 to read as follows:

I. To provide funds for the appropriation made in section 6 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of [~~\$29,500,000~~] **\$31,220,194** and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A; provided that bonds or notes shall not be issued in excess of:

- (a) \$6,000,000 in the biennium ending June 30, 1999.
- (b) \$5,000,000 in the fiscal year ending June 30, 2000.
- (c) \$5,000,000 in the fiscal year ending June 30, 2001.
- (d) \$6,500,000 in the fiscal year ending June 30, 2002.
- (e) \$2,000,000 in the fiscal year ending June 30, 2003.
- (f) \$4,000,000 in the fiscal year ending June 30, 2004.
- (g) \$1,000,000 in the fiscal year ending June 30, 2006.
- (h) \$860,097 in the fiscal year ending June 30, 2007.**
- (i) \$860,097 in the fiscal year ending June 30, 2008.**

II. Payments of principal and interest on the bonds and notes ***in subparagraphs I(a)-(g)*** shall be made from the general fund of the state. ***Payments of principal and interest on the bonds and notes in subparagraphs I(h)-(i) shall be made from the education trust fund established pursuant to RSA 198:39.***

3 Kindergarten Construction Program. Amend RSA 198:15-r, I to read as follows:

I. There is established in the department of education a kindergarten construction program. For the period beginning July 1, 1997, and ending June 30, [~~2006~~] **2008**, the commissioner of education shall make grants available to eligible districts that currently do not operate a public kindergarten program to cover 75 percent of the actual cost of construction of kindergarten facilities, exclusive of site acquisition and core facilities. Grants shall also cover the cost of initial equipment needed to operate a kindergarten program.

4 School Money; Education Trust Fund; Version Effective July 1, 2006. Amend the introductory paragraph of RSA 198:39, I to read as follows:

I. The state treasurer shall establish an education trust fund in the treasury. Moneys in such fund shall not be used for any purpose other than to distribute equitable education grants to municipalities' school districts pursuant to RSA 198:42, ***to distribute \$1,000,000 in school building aid and alternative school building aid grants for the biennium ending June 30, 2007, to make principal and interest payments on bonds and notes issued for kindergarten construction in fiscal years 2007 and 2008***, and to provide low and moderate income homeowners property tax relief under RSA 198:56-198:61. The state treasurer shall deposit into this fund immediately upon receipt:

5 School Money; Education Trust Fund; Version Effective July 1, 2007.

Amend the introductory paragraph to RSA 198:39, I to read as follows:

I. The state treasurer shall establish an education trust fund in the treasury. Moneys in such fund shall not be used for any purpose other than to distribute equitable education grants to municipalities' school districts pursuant to RSA 198:42, ~~[to distribute \$1,000,000 in school building aid and alternative school building aid grants for the biennium ending June 30, 2007,]~~ to make principal and interest payments on bonds and notes issued for kindergarten construction in fiscal years 2007 and 2008, and to provide low and moderate income homeowners property tax relief under RSA 198:56-198:61. The state treasurer shall deposit into this fund immediately upon receipt:

6 School Building Aid; Appropriation. The sum of \$1,000,000 for the biennium ending June 30, 2007 is hereby appropriated from the education trust fund established pursuant to RSA 198:39 to the department of education to supplement existing appropriations to the school building aid program pursuant to RSA 198:15-a through RSA 198:15-hh and the alternative school building aid program pursuant to RSA 198:15-u through RSA 198:15-w. This sum shall be used to offset any deficit in a school district's building aid grants resulting from changes to school building aid law.

7 Kindergarten Construction Program; Repeal Date Extended. Amend 2001, 287:7, I as amended by 2003, 319:137 and 2005, 164:4 to read as follows:

I. Paragraph II of section 6 of this act shall take effect July 1, ~~2006~~ **2008**.

8 Effective Date.

I. Section 5 of this act shall take effect July 1, 2007.

II. The remainder of this act shall take effect upon its passage.

**2006-2117s**

### AMENDED ANALYSIS

This bill:

I. Extends the kindergarten construction aid program through June 30, 2008.

II. Provides that bonded appropriations for kindergarten construction for the 2007 and 2008 fiscal years shall be a charge against the education trust fund.

III. Makes a supplemental appropriation of \$1,000,000 to the department of education for the school building aid and alternative school building aid grant programs.

SENATOR LARSEN: Thank you, Mr. President. We have a floor amendment, which I don't believe the clerk has in her hands. It might be being photocopied at this moment. As I told you...

SENATOR GATSAS (In the Chair): Do you have the floor amendment number? Do you have that?

SENATOR LARSEN: The floor amendment number is 2117s. It might be out here being photocopied at the moment. In essence, I explain to you that I believe that we can free up some general fund dollars so that when we go into Conference Committees on these bills, we have some leeway to fund some of the LCHIP and human service interests that we have to pay for our increased cost of fuel for providers, any number of bills that are coming up to shift the kindergarten construction aid, which we have now in the Senate suggested should be general funds rather than bonded. To take that and pay for it out of the Education Trust Fund,

which has a \$7 million surplus makes good sense. As I told you, there'll be a further amendment on the school building aid bill, which would allow us to shift that also to come out of the Education Trust Fund. If you have priorities for things you want to see funded, whether it's meals on wheels, whether it's any increase as to the community mental health centers who have increased fuel costs, if you have other bills in this list that we are doing today that you would like to see funded, the shift to the Education Trust Fund of some of these expenditures frees up some money so that we can in fact, responsibly pay for those items which are our priorities. I think it gives the Senate some leeway. I've talked with some of the Senate Finance about it, and I've talked over time to Senate Finance, that I think this is a wise move, and I would urge you to adopt floor amendment 2117s. I think those are coming. It is, unfortunately, a three-page bill. It was prepared by Mike Buckley, so we assume, in the Legislative Budget Assistant's Office, that it is done correctly, to take it out of the funds which we intend, which is as I say, the Education Trust Fund. I'm sorry for the delay.

SENATOR BOYCE: I think I can speak to what's been said. It's interesting that, at this point in time, we're being asked to juggle funds between the Education Fund and the General Fund. I believe we already passed a bill out of here this year that does away with the legislative fiction that is the general...Education Fund, because we all know that any funds that are needed for education are a draw against the general fund anyway. But I think back a couple years when there were some proposals in the budget to maneuver some of the funding sources to make it so that we would not end up with as much general fund money having to go to the Education Fund, and some of us were accused of trying to balance the budget on the Education Trust Fund. That we were accused of taking money from education to pay for other things. I'm just curious where that comment is today. Thank you.

SENATOR LARSEN: Question of Senator Boyce.

SENATOR BOYCE: I'm not taking questions.

SENATOR LARSEN: Then to speak a second time.

SENATOR GATSAS (In the Chair): Senator Green to speak for a first time.

SENATOR GREEN: I'd like to see the amendment please, if I may.

SENATOR FULLER CLARK: Thank you. Senator Larsen, I'd like to ask you a question. Is not the reason that this amendment, and that the other amendment is being proposed, is because these are dollars that are being spent for education? We're not asking to use education dollars, would you agree, to be spent on non-education expenditures, and would you clarify for me that I'm correct with that understanding?

SENATOR LARSEN: That's absolutely right. Thank you for the question because I felt the need to respond to that. The issue is in fact, that the earlier bill we had suggested that you take all the money or in essence, eliminate the Education Trust Fund. As those of us who were around here back then remember, the Education Trust Fund was created through increases in business taxes, and increases in auto rental taxes, establishment of auto rental taxes. We created a fund. And, if you look at the language of the Education Trust Fund, it says that "it shall be used for educational purposes" and nothing else. So when the bill came by earlier this session to take the Education Trust Fund and any surpluses, and to put it in the general fund, and no longer recognize the difference,

that was a problem, because that would have meant we would have been raising education monies and spending them on any other general fund need we had. What we are proposing is in fact an amendment which allows for kindergarten, which is clearly an educational program, and school building, which is an educational program. So we are still within our belief system, I think, in proposing this, and I think it's a fiscally responsible thing to do.

SENATOR GREEN: Thank you, Mr. President. I want to make sure that I have the numbers correct here. What's not on this agenda, which we'll probably see at a later date probably next week is Senate Bill 76, which identifies the spending out of the Education Trust Fund, which is for charter schools, and that's a bill that is going to require us to spend some money. It's set up the same way as we do for other public schools, because charter schools are a public school, and they will be able to draw from that fund to pay that tuition cost to charter school pupils. So the fact that we think that there's \$7 million here is a little bit erroneous. It's really not there based on what will be coming at you in the future. I think this is certainly a germane issue, but I think you're going to find, as we look at the charter school issue, that those funds are going to be necessary to fund that particular piece of legislation, so I don't...I think we have a problem with enough money. When you talk about \$7 million in the Education Trust Fund, I do not believe it's there. So, you know, that's my concern about this bill, and on that basis, I'm going to have to vote against this particular piece of legislation. So I'd urge my colleagues to vote no on the amendment. Thank you.

SENATOR MORSE: Thank you, Mr. President. If the Ways and Means chairman was here, I would be curious to understand his position. I think the Senate should fight for his position that went over there and we had problems with. I think I've made it clear today, our total spending level, if like Senator Green talks about on House (sic) Bill 76 was added in here, we've spent \$21 million. We have \$21 million between the two accounts. It's not like Finance Committee did not take that into consideration. The fact is, we're right there in our spending levels right now. And, if we were to move this or we would have moved construction aid or anything else, we'd end up overspending that account and that would be coming from the general fund. That's what would happen. So I think, when Senator D'Allesandro worked with the Senate President, and wanted to move the buckets and straighten them out, it was perfectly logical, those things should happen in Committee of Conference. I believe the House needs to look at our position more clearly when it comes to that because I think the \$19 million that we're looking at is pretty much essentials. It's down to electricity and the needs of those that really need it. So I don't agree with this amendment. I think we're going to solve some problems in Committee of Conference. And I think we should go towards Senator D'Allesandro's amendment.

SENATOR GREEN: Of Senator Morse please. Senator Morse, have we not already provided for the additional money necessary for kindergarten construction?

SENATOR MORSE: Yes. That was a piece of legislation I believe we voted on last year.

SENATOR GREEN: That is correct.

SENATOR MORSE: We put the additional money in and we kept it in. We're just extending that date.

SENATOR GREEN: Thank you.

**Floor amendment failed.**

SENATOR BURLING: Clarification question for Senator Morse. Senator, your last comment caught my attention. When you say that the money was in the budget last year, so is that money for kindergarten construction already accounted for, and if so, what is it on this sheet? We're not spending it twice?

SENATOR MORSE: We actually, when they came to testify before the committee, they said in total they would be short about \$8,000 in bonding authority, and we said, let's not change the bonding authority number. The bucket was, I believe, \$28 million in bonding authority; they've used \$24. That's all accounted for. We haven't released all that bonding money because they haven't started all the construction projects. But yes, that is all accounted for, and all we did was change the date to leave that bonding authority available. That's all this bill does. I don't even believe this bill will show up on this sheet.

SENATOR BURLING: Thank you.

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**Senator Bragdon (Rule #42) on HB 1241-FN-L.**

Senator Boyce is in opposition to the motion of ought to pass as amended on HB 1241-FN-L.

**HB 1249-FN-A-L**, relative to state reimbursement for school breakfasts and making an appropriation therefor. Finance Committee. Ought to pass, Vote 6-2. Senator Clegg for the committee.

SENATOR CLEGG: Thank you, Mr. President. I move House Bill 1249 ought to pass. The bill appropriates \$100,000 to the Department of Education for the purpose of reimbursing school districts three cents for each USDA breakfast served. Currently, 332 of the 452 schools in New Hampshire participate in the National School Breakfast Program. Research has suggested that children who eat a nutritious breakfast are more ready to learn, have better attendance and demonstrate better behavior in school. The Finance Committee asks for your support on the motion of ought to pass. Thank you.

**Adopted.**

**Ordered to third reading.**

**HB 1311-FN-A**, relative to the electronic filing of reports and applications with the secretary of state. Finance Committee. Inexpedient to legislate, Vote 8-0. Senator Clegg for the committee.

SENATOR CLEGG: Thank you, Mr. President. I move House Bill 1311 inexpedient to legislate. The bill authorizes the Secretary of State to implement an electronic filing system for certain reports and applications that are filed with the office. The Secretary of State has already begun the process of implementing the filing system and Dave Scanlan, Deputy Secretary of State, informed the committee that this legislation is not needed. Please support the Finance Committee.

**Committee report of inexpedient to legislate is adopted.**

**HB 1315**, relative to the definition and classification of dams. Finance Committee. Ought to pass, Vote 8-0. Senator Odell for the committee.

SENATOR ODELL: Thank you, Mr. President. I move House Bill 1315 ought to pass. This legislation, in addition to clarifying the dam classification system, transfers the Jericho Lake Dam in Berlin to the state. The Legislative Budget Assistant's Office provided information to the committee on the condition of the dam. It is in good shape and requires only maintenance, although some trees will have to be removed, as part of the development of the new ATV Park. This will be a cost of approximately \$6,500 and will require a \$3,000 annual ongoing cost. This cost will be assumed by the Department of Resources and Economic Development's Parks Fund, which they said they will be able to handle. Please support the Finance Committee recommendation of ought to pass so that this land transfer between the state and the city of Berlin can move forward. Thank you very much, Mr. President.

Senator Gallus offered a floor amendment.

Sen. Gallus, Dist. 1

**May 2, 2006**

**2006-2145s**

**06/09**

### **Floor Amendment to HB 1315**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the definition and classification of dams and relative to the acceptance of Jericho Lake dam and dike in Berlin.

Amend the bill by replacing section 7 with the following:

7 New Paragraph; Jericho Lake Dam and Dike Acquisition Authorized. Amend RSA 482:48 by inserting after paragraph V the following new paragraph:

VI. For a consideration of \$1, the department of resources and economic development, division of parks and recreation, is authorized to accept the Jericho Lake dam and dike in the city of Berlin.

**2006-2145s**

### **AMENDED ANALYSIS**

This bill:

I. Changes the names for classification of dams from letters to names based on the hazard potential of the dam.

II. Exempts certain storm water detention dams from the definition of "dam."

III. Authorizes the department of resources and economic development to accept the Jericho Lake dam and dike in Berlin.

SENATOR GALLUS: Thank you, Mr. President. I would like to introduce floor amendment 2145s.

SENATOR GATSAS (In the Chair): Floor amendment 2145s is being proposed. Will you speak to it as it is being distributed?

SENATOR GALLUS: The amendment basically gives the state legislature authority to not only take over Jericho Lake Dam, but the dike as well. We had failed to include the dike in the prior amendment. This is the last piece of the puzzle. The land surrounding the lake has been designated for the ATV Park and this amendment completes the process. Thank you, Mr. President.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1337**, establishing the amusement ride safety advisory board. Finance Committee. Ought to pass, Vote 8-0. Senator Morse for the committee.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 1337 ought to pass with amendment. House Bill 1337 puts in place a non-confrontational process that will allow the industry and the Department of Safety to sit down and address safety issues on an ongoing basis. This bill has a fiscal impact of less than \$10,000. The Finance Committee asks for your support.

**Adopted.**

**Ordered to third reading.**

**HB 1407-FN-A**, relative to funding exotic aquatic weeds eradication and control. Finance Committee. Ought to pass with amendment, Vote 8-0. Senator Morse for the committee.

Sen. Morse, Dist. 22

**April 19, 2006**

**2006-1894s**

**06/09**

#### **Amendment to HB 1407-FN-A**

Amend the title of the bill by replacing it with the following:

AN ACT relative to funding exotic aquatic weeds eradication and control.

Amend the bill by replacing all after section 1 with the following:

2 Effective Date. This act shall take effect upon its passage.

**2006-1894s**

#### **AMENDED ANALYSIS**

This bill makes permanent the milfoil and other exotic aquatic plants prevention program and the increase in the boat registration fee used to fund the lakes restoration and preservation fund for exotic aquatic weeds prevention and eradication. Currently the increase in the boat registration fee is repealed on January 1, 2008.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 1407 ought to pass with amendment. Senator Johnson informed the committee that he wanted to remove the floor amendment that was passed by the Senate, which this bill does. The bill as amended, makes the \$3 increase in the boat registration fee permanent. This fee increase is currently set to sunset on January 1, 2008. The boat registration fee is used to fund the Milfoil and Other Exotic Aquatic Plants Prevention Program. Say that three times fast. The spread of milfoil compromises the recreational, aesthetic, and economic values of New Hampshire lakes and ponds. Keeping the \$3 fee will allow for continued funding of milfoil prevention, eradication, research and education while supporting the progress that DES and the prevention program have already made against the spread of milfoil. The Finance Committee asks for your support of the motion of ought to pass with amendment.

**Amendment adopted.**

Senator Burling offered a floor amendment.

Sen. Burling, Dist. 5

Sen. Fuller Clark, Dist. 24

Sen. Hassan, Dist. 23

**April 27, 2006**

**2006-2098s**

**06/01**

### **Floor Amendment to HB 1407-FN-A**

Amend the title of the bill by replacing it with the following:

AN ACT relative to funding exotic aquatic weeds eradication and control and relative to boat fee agents of the department of safety and increasing the boat registration fee.

Amend the bill by replacing all after section 1 with the following:

2 Collection; Agents; Fee Remitted to Department of Safety. Amend RSA 72-A:4, I(a) to read as follows:

(a) An agent of the department of safety duly authorized to issue boat registrations under RSA 270-E. These agents shall furnish a surety bond as required in RSA 41:6 *and except for the collection fee under paragraph III, shall remit all fees collected to the department of safety;*

3 Town Treasurer; Payment by Agents of the Department of Safety Removed. Amend RSA 72-A:5 to read as follows:

72-A:5 [~~Town Treasurer~~] **Disposition of Fees.**

I. Every clerk[~~;~~] *and* tax collector[~~;~~ ~~and authorized agent~~] shall each week send all boat fees collected to [~~his~~] *the* town or city treasurer. Except as provided in paragraph II, boat fees shall be for the general use of the town or city.

II. When the boat fee is collected by the department of safety *or its agents*, the fee shall *each week* be deposited in the navigation safety fund established under RSA 270-E:6-a.

4 Increase in Boat Registration Fee for Lakes Restoration and Preservation Fund. Amend RSA 270-E:5, II(a) to read as follows:

(a) [~~\$5~~] **\$7** for each registration specified in paragraph I. The fees collected under this subparagraph shall be paid into the lake restoration and preservation fund established under RSA 487:25.

5 Lake Restoration and Preservation Fund; Milfoil and Other Exotic Aquatic Plants Prevention Program. Amend RSA 487:25, I to read as follows:

I. The fee of [~~\$5~~] **\$7** collected under the provisions of RSA 270-E:5, II(a) shall be paid to the director of the division of motor vehicles. The director of the division of motor vehicles shall pay over said fee to the state treasurer who shall keep the fee in a special fund to be expended by the department of environmental services. The department shall use \$.50 of the fee for lake restoration and preservation measures, exclusive of exotic aquatic weed control, [~~\$1.50~~] **\$3.50** of the fee for the control of exotic aquatic weeds, and \$3 of the fee for the milfoil and other exotic aquatic plants prevention program. The department shall deposit the \$3 into a special account within the lake restoration and preservation fund which shall be used to administer the milfoil and other exotic aquatic plants prevention program. The special fund shall be nonlapsing. All funds received under this section are continually appropriated to the department for the purposes of this subdivision.

6 Effective Date.

I. Section 1 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect July 1, 2007.



**2006-2098s****AMENDED ANALYSIS**

This bill:

I. Makes permanent the milfoil and other exotic aquatic plants prevention program and the increase in the boat registration fee used to fund the lakes restoration and preservation fund for exotic aquatic weeds prevention and eradication. Currently the increase in the boat registration fee is repealed on January 1, 2008.

II. Requires the agents of the department of safety who collect boat fees to remit the fees to the department of safety.

III. Increases the boat registration fee and applies the increase in the boat registration fee to exotic aquatic weed control.

SENATOR BURLING: Thank you, Mr. President. Mr. President, I move the adoption of floor amendment 2098s, and I'll speak to it if I may. Mr. President, this conversation we're having on the floor today is probably the most important of the year. In it, we get to compare notes, exchange ideas, and try to emphasize our different agendas. One of my primary concerns in the state of New Hampshire is the battle with milfoil. And it's a primary concern to me because I come from a district in which there are lots of lakes, lots of tourism, and all of those are inter-related one to another. If milfoil continues its expansion in New Hampshire's lakes, we will not be able to sustain the current rise in our real estate values, the rise in our real estate transfer tax, the rise in tourism, the rise in our tourism taxation. We are dependent upon winning the battle against milfoil, pure and simple. Therefore, as we go through this chart, one of the things I try to say by offering this amendment is we need to do better. We need to pay more for the effort to defeat milfoil. This amendment offers, well, half of what they tried in the House. It is a \$7 boat fee instead of a \$9 boat fee, and it is designed to get more money into the effort. And I just would ask you to think, if you can, for a moment, of what it would look like if your favorite lake, and you get to fill in the blank here. Picture your favorite lake, choked with milfoil to the extent that people cannot enjoy it for the swimming, the boating, the recreation, the just looking at it that people now pay us millions of dollars to do. We need to win this fight. This is a priority we feel is important. We offer this amendment as a way to solicit your support for doing more against milfoil. Thank you, Mr. President.

SENATOR JOHNSON: Senator Burling, are you aware that in Maine, they have an environmental policy that is in statute now that says to eradicate milfoil in the long-term, that they charge \$10 for a boater that is registered in Maine and \$20 for a boater that comes into Maine from out-of-state? Are you aware of that?

SENATOR BURLING: I am aware of that. I had heard it. I don't pay it, but I'd heard it.

SENATOR JOHNSON: Thank you.

SENATOR LETOURNEAU: Thank you, Senator Burling. Follow up on Senator Johnson's question is, if that's the case, this particular amendment of yours will cost **TAPE CHANGE**

**The question is on the adoption of the floor amendment.**

**A roll call was requested by Senator Larsen.**

**Seconded by Senator Estabrook.**

**The following Senators voted Yes: Johnson, Burling, Flanders, Odell, Eaton, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**The following Senators voted No: Gallus, Kenney, Boyce, Green, Roberge, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**Yeas: 11 - Nays: 12**

**Floor amendment failed.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1429**, relative to municipal exemptions for hazardous waste cleanup liability. Finance Committee. Ought to pass with amendment, Vote 7-1. Senator Green for the committee.

**Senate Finance**

**April, 20, 2006**

**2006-1956s**

**08/09**

**Amendment to HB 1429**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to municipal exemptions for hazardous waste cleanup liability and preventing the exemption of privately-owned landfills and ancillary facilities from property taxes.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Exemptions. Amend RSA 147-A:9 by inserting after paragraph I the following new paragraph:

I-a. Government entities, including their employees, shall not be liable for the release of hazardous waste during the lawful transportation of locally collected household hazardous waste over the byways of the state, to regional hazardous waste collection centers or in-state or out-of-state disposal facilities in the absence of willful, wanton or reckless conduct. In the event of a release during such transport, the department of environmental services shall be liable for containment of household hazardous wastes, removal of the household hazardous wastes, necessary cleanup and restoration of the affected site and the surrounding environment, and any required evaluation, assessment, and monitoring associated with the release.

2 New Paragraph; Exemptions. Amend RSA 147-B:10 by inserting after paragraph I the following new paragraph:

I-a. Government entities, including their employees, shall not be liable for the release of hazardous waste during the lawful transportation of locally collected household hazardous waste over the byways of the state, to regional hazardous waste collection centers or in-state or out-of-state disposal facilities in the absence of willful, wanton or reckless conduct.

3 Statement of Purpose. The general court finds that tax exemptions for private landfills are contrary to public interest. As such, the provision of pollution control tax exemptions to privately-owned landfills and ancillary facilities located at such landfills is contrary to the public interest articulated by the general court in its enactment of RSA 149-M:3.

The general court reaffirms that the use of landfills is the least preferential of waste management methods. As the least preferential management method, privately-owned landfills which constitute a unique class of property shall not be entitled to pollution control tax exemptions pursuant to RSA 72:12-a.

4 Water and Air Pollution Control Facilities. Amend RSA 72:12-a, I to read as follows:

I. Any person, firm or corporation which builds, constructs, installs, or places in use in this state any treatment facility, device, appliance, or installation wholly or partly for the purpose of reducing, controlling, or eliminating any source of air or water pollution shall be entitled to have the value of said facility and any real estate necessary therefor, or a percentage thereof determined in accordance with this section, exempted from the taxes levied under this chapter for the period of years in which the facility, device, appliance, or installation is used in accordance with the provisions of this section. ***This paragraph shall not apply to privately-owned landfills or ancillary facilities located at such landfills.***

5 Applicability. This act shall apply with respect to real estate taxes assessed on or after April 1, 2007.

6 Effective Date.

I. Sections 1-2 of this act shall take effect 90 days after passage.

II. The remainder of this act shall take effect upon its passage.

**2006-1956s**

#### AMENDED ANALYSIS

This bill creates municipal exemptions for hazardous waste cleanup liability.

This bill also prevents the exemption of privately owned landfills and ancillary facilities from property taxes.

SENATOR GREEN: Thank you, Mr. President. I move that House Bill 1429 ought to pass with amendment. New Hampshire communities do not hold hazardous...household hazardous waste collections because they are concerned about the liability of transporting the waste to a waste collection center. House Bill 1429 will exempt government entities and their employees from being liable for the transporting of hazardous waste. Should there be a spill, DES will be liable for the containment, removal and necessary cleanup of hazardous waste as well as the restoration of the site and surrounding environment. This legislation will encourage communities to dispose of household hazardous waste in a cost-efficient and environmentally responsible manner. The amendment also removes the exemption from privately owned landfills from their property tax responsibilities. You've seen this amendment many times. I believe it's the fourth time its come before the Senate. Each time the Senate has passed this amendment. It has always got wrapped up in Committees of Conference. It, itself, has not been controversial, but most of the other language in the bill have been controversial. You will also see a further amendment offered on the floor by Senator Morse at the appropriate time, which will also clarify the language on the bill to help make sure a clear...the language regarding the whole issue of the liability. Thank you. I ask you, and the Finance Committee asks you, to support this motion of ought to pass as amended. Thank you.

SENATOR FOSTER: Senator Green, I just want to make sure I understand how this works, because whenever we're limiting liability, I want

to make sure that we're not doing it in such a way where nobody would be responsible for it so, if there's a spill here, what we're really doing is to encourage the towns to do this collection and transportation. We're saying that if there is a spill, they won't be responsible but the state would. So there would be somebody around to deal with the...

SENATOR GREEN: With the environmental pieces. Not for the person who is driving the truck or anything like that, if there is negligence or anything like that. It's the actual transporting of the waste itself. The hazardous waste.

SENATOR FOSTER: Follow up? So if, in the transport of it, there's a spill or something, who would be responsible under this bill?

SENATOR GREEN: The liability would be the state under this bill and the local communities would have that exemption...have that ability to have that liability covered by the state of New Hampshire.

SENATOR FOSTER: Thank you.

SENATOR GREEN: You're very welcome.

SENATOR LARSEN: Senator Green, in Concord we hire out-of-state, oftentimes out-of-state collectors for our hazardous waste day. Why would we have...why would we not have some liability to the company that's hired? Why would you not require them to have liability protection or can you explain that part of the policy?

SENATOR GREEN: Again, I think this bill is very clear, that it just covers the local governmental entities. I don't believe that we get into the issue of liability in private sector. I think the private sector itself has to carry insurance. It would behoove the municipality to make sure, if they're going to have a contractor, make sure they have the adequate insurance.

SENATOR LARSEN: Thanks.

### **Amendment adopted.**

Senator Morse offered a floor amendment.

Sen. Morse, Dist. 22

**May 3, 2006**

**2006-2161s**

**04/10**

### **Floor Amendment to HB 1429**

Amend RSA 147-A:9, I-a as inserted by section 1 of the bill by replacing it with the following:

I-a. Government entities, including their employees, shall not be liable for the release of hazardous waste during the lawful transportation of locally collected household hazardous waste over the byways of the state, to regional hazardous waste collection centers or in-state or out-of-state disposal facilities in the absence of willful, wanton or reckless conduct. In the event of a release during such transport, the department of environmental services shall be responsible for containment of household hazardous wastes, removal of the household hazardous wastes, necessary cleanup and restoration of the affected site and the surrounding environment, and any required evaluation, assessment, and monitoring associated with the release. Any costs associated with such containment, removal, cleanup, and restoration, and any required evaluation, assessment, and monitoring shall be a charge against the hazardous waste cleanup fund established in RSA 147-B:3.

SENATOR MORSE: Thank you, Mr. President. I offer amendment 2161s.

SENATOR GATSAS (In the Chair): 2161. Would you please speak to that amendment as it's being distributed?

SENATOR MORSE: Sure. If you look at the piece of legislation, in the second paragraph, after where it says, "with the release". Basically what we've done is we've added the account in the Department of Environmental Services that this would be charged to. "Any costs associated with such containment, removal, cleanup, and restoration, and any required evaluation, assessment, and monitoring shall be charged against the hazardous waste cleanup fund established in RSA 147."

SENATOR FOSTER: Senator Morse. Sort of like a follow-up to the question I was asking Senator Green. So how much money is in this account if there was a spill?

SENATOR MORSE: I'm not sure, but basically, I think like what's being presented on the liability end...and remember, if this liability happened at your local level, you know, could a town sustain it? We basically heard from the Commissioner that he was concerned about what bucket to take it out of, and we asked him where it normally would come out of, and this is the account. So we've been explicit this is the account. The state, ultimately, would have to fund this account. That's where it would come out of. But I don't know that a town, if there ever was something, could sustain it. We'd have to do it as a state.

SENATOR FOSTER: Follow up? I guess I just would want to be sure before voting on this, that in fact, the state would be responsible so we just don't have a situation where nobody's responsible. I understand the policy of taking it off of the municipalities and why we're doing that, but we're passing it over at the state. And if the account had zero, would there be any recourse to anybody?

SENATOR MORSE: Senator, you know, the Finance Committee gets bagged with just about everything. The policy committee passed this bill "ought to pass", and all we did was address the liability 'cause we looked at the financial side of it, and when we first addressed the liability in working with the Attorney General, no one supported what Finance did. So second, when we addressed it, we said, there's got to be a bucket this needs to come out of 'cause there's nothing in the Department. So we're setting up the bucket. The policy came out of the policy committee, and we're just shoring it up. That's what Finance is doing. So, if you have a question of policy committee, maybe they could answer it better.

SENATOR FOSTER: Thank you.

SENATOR HASSAN: Thank you. I rise as a member of the policy committee just to report, in response to Senator Foster's question, that I think it was our understanding that the state would be fully responsible for the cost of whatever cleanup there would be. It does concern me, if we are capping that amount by what's available in a particular fund, that we would be encouraging or providing incentives, if you will, for private haulers not to carry much insurance, and meanwhile, the state not to have enough funds to actually engage in the environmental cleanup. So I do have concerns about this amendment as a member of the policy committee. Thank you.

SENATOR FULLER CLARK: Thank you very much. I do have a question of Senator Hassan. I'm still not clear...would this legislation, if we have relieved the private haulers either in-state or out-of-state, of any responsibility for clean up?

SENATOR HASSAN: I think...my understanding is that we did not intend to release private haulers from liability, but it seems to me that with this amendment, there may be...if a municipality hires a private hauler to take care of the hazardous waste and there is a spill, and the private hauler's insurance isn't enough to clean that up, the municipality is then relieved of liability, and that raises the question of how much is in the state fund to complete the clean up.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

SENATOR BURLING: Mr. President, I don't even know who to ask this question of now 'cause, as with Senator Hassan, I was on the policy committee, and it was clear what we were doing was absolving local municipalities and making it clear that the state was going to bear this responsibility. As I read the bill now as amended, if there is a truck that overturns and spills stuff all over the place, I see that DES is responsible for the containment, cleanup etc., but I don't know who's responsible for any of the other perfectly predictable damages that arise out of such an incident. I mean, who's going to pay the people who have to have bottled water for three weeks? What have we done? We've included a blanket exemption for government entities and a specific and much narrower obligation for DES, theoretically, to set up a fund, but there's no clear obligation to fund that to an amount necessary to pay for the problem.

SENATOR GATSAS (In the Chair): Is that a question?

SENATOR BURLING: I don't see anybody putting their hand up to answer it. I'd move to table.

### **MOTION TO TABLE**

Senator Burling moved to have HB 1429 laid on the table.

**Motion failed.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1458-FN**, relative to the regulation of landscape architects. Finance Committee. Ought to pass with amendment, Vote 4-3. Senator Morse for the committee.

Sen. Morse, Dist. 22

**April 24, 2006**

**2006-2009s**

**04/03**

### **Amendment to HB 1458-FN**

Amend the title of the bill by replacing it with the following:

**AN ACT** establishing a committee to study the licensing and regulating of landscape architects.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study the licensing and regulating of landscape architects.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house of representatives.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study the licensing and regulating of landscape architects.

4 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section. Four members of the committee shall constitute a quorum.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2006.

6 Effective Date. This act shall take effect upon its passage.

**2006-2009s**

#### AMENDED ANALYSIS

This bill establishes a committee to study the licensing and regulating of landscape architects.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 1458 ought to pass with amendment. The committee amendment creates a study committee to study the licensing and regulating of landscape architects. Up to this point, the interested parties have been unable to reach an agreement. Therefore, the Committee felt a study was necessary to further examine the licensing of landscape architects to determine how to best move forward. The Finance Committee asks for your support of ought to pass with amendment.

SENATOR ROBERGE: Thank you, Mr. President. I would urge the Senate to defeat the committee amendment and go back to the original bill. Senator Fuller Clark, and now Congressman Jeb Bradley, have repeatedly sponsored legislation to license landscape architects. With our growth and our valuable natural resources, we need qualified professionals doing landscape architecture. Landscape architecture is a profession whose time has come for New Hampshire. We are only one of three states that do not have some type of licensure. Unlike our distinction of having no sales or income tax, or having the first Presidential Primary, this distinction is not beneficial to the people of New Hampshire. There are some among us that say that licensure of landscape architects will have a negative impact on our economy and growth. Nothing is further from the truth. Attractively designed projects are approved more quickly and sell better than poorly designed projects. Landscape architects help ensure good design and an attractive development for all segments of the population including workforce housing initiatives and many others. That is why both public and private sectors are demanding the skills of landscape architects. Others argue that the skills that the landscape architects bring to a project can be done by other professionals that are already licensed. Again, this is not the case. Landscape architects have skills that overlap other professions, but **TAPE CHANGE** will increase the projects costs. Manchester, for example, requires a landscape archi-

tect on all city projects above \$500,000 not including land and buildings. If the city uses out-of-state license architects, odds are that their rates are higher than those would be in New Hampshire. Because a number of factors, a higher cost of living, income taxes, and the like from other states. The landscape architects have worked diligently with other professional groups to craft a bill that carves out a niche for them without stepping on the toes of others. They have support from the allied professionals including four engineering groups, architects, natural scientists, landscapers, nurserymen, landscape designers. Only one group, the New Hampshire Land Surveyors, has opposed the bill. The landscape architects have modified the House Bill to include five of the seven land surveyors, five of the seven land surveyors...five of the seven items the land surveyors requested. Landscape architecture has been a recognized profession for over one hundred years. The work of landscape architects have enriched the state with beautiful parks, attractive downtown streetscapes, and countless private developments. Denying licensure will hurt the very people we count on to protect New Hampshire from urban sprawl, cookie cutter subdivisions and the disastrous results of unscrupulous developers. Please vote for 1458 not amended. Thank you.

**Recess.**

**Out of recess.**

**A division vote was requested.**

**Yeas: 8 – Nays: 14**

**Amendment failed.**

SENATOR ROBERGE: I would move passage of House Bill 1458 unamended.

SENATOR GATSAS (In the Chair): Ought to pass?

SENATOR ROBERGE: Ought to pass.

Senator Roberge moved ought to pass.

SENATOR BOYCE: Thank you, Mr. President. I believe that this bill will do nothing but rise...raise costs for people trying to do business in this state. It will allow for certain municipalities to require something that, up to this point, the state didn't even think there was a need to license, and it will require companies to hire people with a license that covers things that they already have people hired to do. In the bill, it talks about doing things that civil engineers do, doing things that landscapers do, doing things that nurserymen do, doing things that land surveyors do. They already have those people on their staff but now they're going to have to hire somebody new at probably a much higher price because they've got a license, and it's going to cost people in this state for what we're doing here. We're over-regulating. We're over-licensing. We are over-governing. We need to stay out of some of this stuff. We need to vote no once in a while. Thank you.

SENATOR LARSEN: If you look around the state you'll see places like Strawberry Banke, the Notch, Dartmouth College, and Manchester's downtown millyard revitalization, and then all the way over at Wentworth by the Sea. You see the effect of a landscape architects work. This does not preclude other professionals doing their job. It recognizes that landscape architects have a profession that is valued, that is important to license so that when you present yourself as a landscape architect, you are in fact a landscape architect. This bill is supported by Manchester Cham-



ber of Commerce, New Hampshire Landscapers Association, professional engineers, and the House unanimously, passed this bill. We're making a good move to pass this bill.

SENATOR CLEGG: Thank you. I rise against the bill. I supported the amendment because it would have done one of the biggest things that we needed to have done. What does a landscape architect do? Because, if you read the bill, he can do everything. They can do what a civil engineer can do. They can do what a surveyor can do. They can do everything. If I look close enough, I'll bet they can be lawyers, because lawyers weren't exempted. So they must be okay. What is this doing? This is taking the little guy who's doing this work now, and putting him one step back. The guy who can't afford to go to college and get that piece of paper, whose doing this work now. What are they going to do? Well landscape architects are responsible, according to this, for "enhancement and determination of proper land uses". Gee, we already have somebody that does that. "Preservation", we already have people who do that. How about "uses of natural features, ground cover and planting." We've got stuff in here about drainage. "Consideration of hazards". All this stuff is being done by somebody else. They're going to decide how to build walkways. Guess what? The guy that builds the walkways is already responsible to follow a code, but now he can't do his job unless he has a landscape architect. What are we doing to the little guy? Why is it we always beat the heck out of the little guy? That guy going out there every day trying to make a buck to support his family. We put one more obstacle in his way. Now, when he wants to do what he's been doing all the time, he's got to go to hire a landscape architect. Thirty-five people in this state want this bill and there's hundreds who don't. Civil engineers are starting to call. They now realize that landscape architects are gonna be doing their work. Surveyors have come in and said, "don't let this pass." Landscapers are saying, "what does it do for me?" Well right now, it doesn't do anything, until they can finish going from community to community, to say, "you need a landscape architect for the health, safety and welfare of the community." Everyone I've asked exactly what that is, hasn't come up with doing anything new that isn't already done by somebody in business. Another layer of government. Workforce housing? Keep putting restrictions like this on and there won't be any, because we can't afford it. But what I want to remind all of you here is this state is made up of small entrepreneurs. And what you're doing is putting a great number of them out of business because they'll have to go work for someone else and that's wrong. For thirty-five people. For the benefit of one firm who came in here and said, "I need this so I can get more work for my people." It's wrong. It's wrong to do this to the small business person. It's wrong to do it to the state of New Hampshire. And God help the next group that we decide to go and legislate so they can't make a living either. Thank you.

SENATOR LETOURNEAU: Yes, of Senator Clegg. Senator Clegg, I have a young lady in my district that attended the Thomson's School for Landscape Design at UNH, and it's a two-year course. What's going to happen to her and her business if this passes?

SENATOR CLEGG: Well, if she's not a landscape architect, she'd better go back to school if she can afford it.

SENATOR LETOURNEAU: Thank you.

SENATOR MORSE: To answer the Senator's question, you have to go to a four-year school and then you're going to have to work under one

of the thirty-five or thirty-seven people for three years afterwards. We've done nothing about grandfathering. The attempt in the committee was to try and work on these other issues, not to kill the piece of legislation. There were other amendments, quite frankly, that would have killed the legislation. There's one page of exemptions. One full page. It starts on page nine and goes to page ten. And, as it was just pointed out to me, businesses conducted in this state that are exempt are "agriculturists, horticulturists, tree experts, arborists, foresters, wetland scientists, certified professionals in erosion, sediment control, natural scientists, soil scientists, nurserymen, landscape nurserymen, gardener, landscape gardener, landscape designer, landscape contractor, irrigations contractor, irrigation designer, garden and lawn caretaker, or grader or cultivator of land"...I'm in there, so I guess I'll take a Rule #42, because I'm in the legislation. The fact is, there's so much in this legislation that I should be up here discussing that hasn't been worked out. Senator Clegg's exactly right. He's been fighting all my battles this year, and I don't know why all the nursery battles are coming up this year and they're hardly coming from me. But when I read this, we haven't put enough thought into it. We are making a few people rich by doing this. We have not thought about the engineer that doesn't have architects in New Hampshire. Who's he going to go to? He's going to go to one of thirty-five people, because that's what we heard. I have to tell you the biggest problem with this is that whole list I just read, will be here next year. And don't tell me it won't happen, because I called the irrigation people to ask them how they felt about this legislation. Do you know what they told me? "We support it. You know why we support it? We're coming next. We want you to pass it." Does that policy committee, and Senator Clegg, that bill should have went to that policy committee for the tough decision. Does that policy pass licensing that has nothing to do with life safety? I hardly believe it. We have another bill we killed. We've killed several bills about electricians that have to deal with light electrical, irrigation, TV installers. We've killed those because there's no life safety. Where is the life safety in this piece of legislation? Where is it? You can't explain it. You've exempted me from it, so I won't explain it. But the fact is, you're going way too fast. You're going to pass something you're going to regret. And when all those people call you, when they all call you, the one special interest that we're catering to today, is going to hear it from the rest of the state, because they're going to be calling.

### **Recess.**

### **Out of recess.**

SENATOR GATSAS (In the Chair): Oh, I'm sorry. I apologize. I apologize. We're outside of the voting mode. There were two more speakers and I apologize. Senator Hassan.

SENATOR HASSAN: Thank you, Mr. President. I just rise to note, as I look at the language of the bill, in the very exemption section that Senator Morse referenced, on page ten, in paragraph 4, "the following people are exempted from this licensure requirement: agriculturists, horticulturists, tree experts, arborists, foresters, wetland scientists, certified professionals in erosion and sediment control, natural scientists, soil scientists, nurserymen or landscape nurserymen, gardener, landscape gardener, landscape designer, landscape contractor, irrigation contractor, irrigation designer, garden or lawn caretaker, or grader or cultivator of land." It is hard for me to figure out how any of the small businessmen that Senator Clegg was just referencing cannot call themselves

one of these things to be exempted from this licensure requirement. I think there's been a lot of heat, but not a lot of light on this bill. I think it's a good bill and we should pass it. Thank you.

SENATOR MORSE: Senator Hassan. Senator Hassan, what am I exempt from?

SENATOR HASSAN: You're exempt from being required to get licensure so you can still do the kind of work that you do as a nurseryman in your business, unless the business has decided that it needs a licensed architecture, which I would assume we'd want businesses to be able to decide.

SENATOR MORSE: Well, what exactly am I exempt from? I understand plant material. Am I exempt from commenting on plant material? What is it that a landscape architect is going to do that exempts me from it, because that's the part I don't understand? I am being exempted from something, and all of these other people are, and we don't understand what we are being exempted from.

SENATOR HASSAN: To respond to your question, I think you're being exempted from a requirement that you be licensed. If the building, if the entity that is hiring you does not feel it needs a licensed landscape architect, then you may come and do the work. I think it's pretty clear.

SENATOR FULLER CLARK: Thank you very much, Mr. President. I do rise to speak in support of this bill without amended. I would like to take the opportunity to answer Senator Morse's question. What it's basically saying here is that, if you are not licensed as a landscape architect, the only thing that you cannot do is put that qualification on your business card. You can talk about yourself being any of these other things, and you can continue to practice your profession. You just simply cannot represent yourself as a landscape architect, because that is a separate profession that has been recognized by certain qualifications, certain training, and has been recognized in forty-seven other states. What's happening here right now is, we're saying, for those people who are especially trained in that profession, carry that graduate degree, that they cannot practice in New Hampshire when projects call for a licensed landscape architect. Currently, those jobs are being filled by their compatriots in the profession from adjacent states. Why we would not want to recognize that profession and license that profession so those people who are trained in an area can live and work in New Hampshire, and be able to qualify where it is specifically specified that a landscape...that a licensed landscape architect is needed to do the job. But there is nothing in this bill that is preventing any other individual from continuing with their profession. They're just saying please recognize us because we have specialized credentials, particularly in the area of design and aesthetics, and please protect us by not letting anyone else claim that they are a landscape architect, and use that label when they haven't, don't carry that degree and aren't licensed. Thank you.

SENATOR MORSE: Question of Senator Fuller Clark.

SENATOR FULLER CLARK: Certainly.

SENATOR MORSE: Senator, if I'm, and I'm not. If I'm a landscape irrigation installer, and a community requires irrigation as part of a project, and that same community is going to require a landscaper stamp, is the landscaper that does irrigation going to be able to draw a plan for the town without a stamp being put on it? Can you answer that question at this point?

SENATOR FULLER CLARK: I believe that they can because they have a specific area of expertise that they are providing. The problem that we have is a licensed landscape architect cannot sign on, when that's required, because they're not recognized in New Hampshire.

SENATOR MORSE: Further question. Senator, I trust that you believe, but this is a legal document we're voting on. Where does it say it in there that that's been spelled out of who's going to do what, because I can go on and on from industry to industry and try to detail these things? Where is it that I'm protecting the irrigation guys so they can continue to do their job, because they want licensing next year, they've said it to me. I've asked.

SENATOR FULLER CLARK: We're not here today to argue about these other specific allied professions. What we're here to do today is to decide whether or not we believe that the profession of landscape architect is legitimate and should be recognized in New Hampshire.

SENATOR CLEGG: Thank you. First I'd like to apologize to the body. I made a statement on the floor that this was done for one company. That's not the case; I misspoke. There are thirty-five people in this state who this bill affects and that's more than one company. What I'd like to point out is that this bill isn't just recognizing landscape architects. In fact, what this bill is doing is carving out a huge niche for landscape architects. Because when you look at the exemptions, it says, "nothing in the subdivision shall be construed to prevent or affect." And one of them is "the preparation of plans, drawings, specifications, supervision of construction or alternation of landscape design associated with farms, residences", that's the places you and I live in, "institutional commercial uses, where the client or the reviewing government entity does not require the stamp of a licensed landscape architect." What we're doing is we're opening the door for the next town meetings, for everybody to do what they did in Manchester, what they've done in Amherst, and what they're trying to do in every single community. This bill allows for one article to go onto your place, where they say with landscape architects involved everything's going to be beautiful, and suddenly, all the people listed in the exemption, according to the law you're passing, no longer can ply their trade without the supervision of a landscape architect. It's there. Read it. That's what it says. Thank you.

SENATOR LETOURNEAU: Senator Clegg, thank you for taking the question. How will this impact in local communities in terms of cost for projects?

SENATOR CLEGG: Every builder's going to have to include the costs of one more licensed person. You're going to do a project, the guy that used to do the job is now going to have to be supervised by a landscape architect. The bigger thing, Senator, is those of us who have been doing this work already, will be relegated to a lower level simply because we didn't have the money to go to a four-year college.

SENATOR LETOURNEAU: Thank you.

SENATOR HASSAN: Question of Senator Clegg please. Senator Clegg, thank you for taking my question. Are you saying that the state of New Hampshire knows better than our local communities about whether their projects should require the services of a licensed architect, a landscape architect?

SENATOR CLEGG: Senator Hassan, what I'm saying is this legislature is creating bureaucracy to hurt the small business person. That's what I'm saying.

SENATOR HASSAN: Thank you.

### **PARLIAMENTARY INQUIRY**

SENATOR GATSAS (In the Chair): Parliamentary inquiry, Senator Martel.

SENATOR MARTEL: I was just wondering if you could just clarify what the motion is at this point in time, seeing that we've had all kinds of different ones?

SENATOR GATSAS (In the Chair): The question is on the original bill.

SENATOR MARTEL: Thank you.

**The question is on the motion of ought to pass.**

**A roll call was requested by Senator Clegg.**

**Seconded by Senator Bragdon.**

**The following Senators voted Yes: Kenney, Burling, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Larsen, Barnes, Martel, Estabrook, Hassan, Fuller Clark.**

**The following Senators voted No: Gallus, Johnson, Boyce, Green, Clegg, Gatsas, Letourneau.**

**Yeas: 15 - Nays: 7**

Senator Morse (Rule #42).

**Adopted.**

**Ordered to third reading.**

### **PARLIAMENTARY INQUIRY**

SENATOR MORSE: Mr. President?

SENATOR GATSAS (In the Chair): Senator Morse.

SENATOR MORSE: Parliamentary inquiry?

SENATOR GATSAS (In the Chair): Parliamentary inquiry.

SENATOR MORSE: If you take a Rule #42 in this body, are you allowed to speak on an issue?

SENATOR GATSAS (In the Chair): You may speak on an issue, as long as you complete the participation form and show what your conflict is, and then take your Rule #42, Senator.

SENATOR MORSE: Thank you, Mr. President.

**HB 1459-FN-A**, relative to the department of regional community-technical colleges and making an appropriation therefor. Finance Committee. Ought to pass with amendment, Vote 7-0. Senator Odell for the committee.

**Senate Finance**

**April 26, 2006**

**2006-2077s**

**04/03**

### **Amendment to HB 1459-FN-A**

Amend the title of the bill by replacing it with the following:

**AN ACT** making an appropriation to the department of regional community-technical colleges for tuition maintenance; authorizing the temporary use of the department of regional community-technical colleges nonlapsing account for tuition maintenance; and making a bonded capital appropriation to the department of regional community-technical colleges for construction of a health education center nursing wing at the New Hampshire technical institute in Concord.

Amend the bill by replacing all after the enacting clause with the following:

1 Department of Regional Community-Technical Colleges; Appropriation. The sum of \$400,000 for the fiscal year ending June 30, 2007 is hereby appropriated to the department of regional community-technical colleges to enable the regional community-technical college board of trustees to maintain tuition at its present level for the 2006-2007 academic year. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

2 Regional Community-Technical College System; Use of Nonlapsing Account. The commissioner of the department of regional community-technical colleges, with the prior approval of the fiscal committee of the general court and the governor and council, may use funds in the nonlapsing account established in RSA 188-F:14-c to enable the regional community-technical college board of trustees to maintain tuition at its present level for the 2006-2007 academic year. This authority shall expire on June 30, 2007.

3 Capital Appropriation; New Hampshire Technical Institute; Health Education Center Nursing Wing. The sum of \$600,000 is appropriated to the department of regional community-technical colleges, for the biennium ending June 30, 2007, for the construction of a health education center nursing wing at the New Hampshire technical institute in Concord. This amount shall be in addition to \$2,400,000 in funds available for this purpose from other sources, including the \$250,000 state appropriation in 2005, 259:1, III, E.

4 Bonds Authorized. To provide funds for the appropriations made in section 3 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$600,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made from the general fund of the state.

5 Effective Date.

I. Section 1 of this act shall take effect July 1, 2006.

II. The remainder of this act shall take effect upon its passage.

**2006-2077s**

### AMENDED ANALYSIS

This bill:

I. Makes an appropriation to the department of regional community-technical colleges for tuition maintenance and authorizes the temporary use of the department of regional community-technical colleges nonlapsing account for tuition maintenance.

II. Makes a capital appropriation to the department of regional community-technical colleges for construction of a health education center nursing wing at the New Hampshire technical institute in Concord.

SENATOR ODELL: Thank you, Mr. President. I move House Bill 1459-FN ought to pass with amendment. This legislation contains a request from the community technical colleges for an appropriation to maintain tuition at its present level for 2006-2007 academic year. The committee came to agreement on a \$400,000 appropriation for this purpose. In addition, this bill also gives the community technical colleges the authority to use funds in the non-lapsing account, which contains revenues in excess of legislative estimates and general fund appropriations that have not been spent, with the approval of the Fiscal Committee. It also allows \$600,000 to be bonded for the construction of a nursing wing at the New Hampshire Technical Institute in Concord. The Finance Committee asks your support for the motion of ought to pass with amendment. Thank you, Mr. President.

**The question is on adoption of the committee amendment.**

**A roll call was requested by Senator Eaton.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: Boyce.**

**Yeas: 22 - Nays: 1**

**Amendment adopted.**

Senator Burling offered a floor amendment.

Sen. Burling, Dist. 5

**April 27, 2006**

**2006-2097s**

**04/01**

### **Floor Amendment to HB 1459-FN-A**

Amend the bill by replacing section 1 with the following:

1 Department of Regional Community-Technical Colleges; Appropriation. The sum of \$1,000,000 for the fiscal year ending June 30, 2007 is hereby appropriated to the department of regional community-technical colleges to enable the regional community-technical college board of trustees to maintain tuition at its present level for the 2006-2007 academic year. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

SENATOR BURLING: Thank you, Mr. President. Mr. President, I move the adoption of 2097s floor amendment.

SENATOR GATSAS (In the Chair): 2097 has been proposed. You may speak to that amendment while it's being passed out.

SENATOR BURLING: Thank you, Mr. President. I find it very encouraging and refreshing to hear so many of us talking about the needs of the little guy. I don't know about you folks, but my district includes the wonderful city of Franklin, which just lost two hundred jobs a week ago. We have few things that we can do as a state more effective than provide an inexpensive, focused, and wonderfully taught, vocational technical training for people whose jobs have been interrupted or are entering the job market. It is critical that we provide the Vo Tech System with sufficient funds in this environment to keep their tuition level flat. Not

up a little, not up a lot, flat. Senator Gallus knows of what I speak, because he faces the situation in his district of significant job loss, and we have been addressing the issues of the north country for the last three weeks. Senator Odell understands it very clearly, because he represents a part of the state, as do I, that needs the services of the Vocational Technical College System, and needs the services at an affordable level. What we've been doing all day today, is engage in an ongoing and rolling discussion about the priorities that each of us brings to this chamber. They are priorities in spending, they are priorities in terms of the use of political power. They are priorities in terms of our slightly differing views of the future. I believe it is a critical moment in our history. There are parts of this state, largely in the north and west, which are rapidly falling behind the south and the east in terms of job development, in terms of economic enjoyment of the riches and bounty of this state. The Vocational Technical College System allows for an equalizer of the distribution of benefits to all of the people who live in this wonderful state. We should continue to do what we can to support that system and to support that system as it tries to offer its service and its education without increasing costs for the people who need that education. This bill simply adds in \$1 million instead of the \$400,000. I have been clearly informed that, with that \$1 million, it will be possible to maintain a level tuition, no increase, and I encourage my colleagues to join me in expending this small amount of money for this marvelous effort. Thank you, Mr. President.

SENATOR FULLER CLARK: Thank you very much, Mr. President. I rise too, in support of this amendment. And I'd just like to put in the perspective that it's through these community technical colleges that we are able to keep a larger number of our students and our young talent in the state, in the state. The technical colleges are providing the programs that are providing us with the nurses that we need. They are providing us with the specialties that can go to work for many of our industries. I know, with regard to the technical college on the seacoast, that their bio-technical program allows those individuals to go out and get good paying, high quality jobs with many of the businesses that are located in the seacoast. It makes no sense to me that we wouldn't want to do everything in our power to keep that tuition at a level that is going to make it affordable or a little bit more affordable than it is right now for our students. We have the highest tuition of any of our community technical colleges in New England. Many of those students are going out-of-state. And what we saw over the last year or year and a half was that the enrollment for our technical colleges was beginning to diminish because of the high cost. This is a very important piece of legislation, so that we can offer the education that is so critically needed by our young people in every part of the state and keep that cost at least at the level that it is today rather than seeing those costs go up once again. Thank you.

SENATOR MORSE: Sure, thank you, Mr. President. I rise against amendment number 2097. The Finance Committee has worked with the tech system, even through the budget process last year when the Governor was assured at that time that if we funded the way we funded, that there would be no rise in tuition. Quite frankly, we funded \$400,000 in general funds, we funded \$610,000 to get the nursing facility finished in Concord, and we gave them the authority to go to an account that they have that's been increasing in funding that they had to use for another mistake they



made this year, when they didn't put enough money in their capital budget for their computer system. They had to go back and hit that account, and they were only here in June explaining why they had enough. I really don't believe that this is needed. There's \$1.3 million in the account they have. We're basically asking to hit that account for \$900,000 to keep the level of funding. That's what we've done in the legislation. Like I said, along with that, we put \$610,000 in a non-capital budget year, into bonding to finish the nursing school here in Concord.

SENATOR KENNEY: I have a question of Senator Morse, Mr. President. The last sentence in the amendment, "The Governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated" Could you explain to me what that means as far as where he can get that money?

SENATOR MORSE: The general fund would be \$400,000. That's language that would allow him to draw that money. Are you talking about Senator Burling's amendment or the amendment from the committee?

SENATOR KENNEY: The Burling amendment. It just seems like there's a lot of leeway.

SENATOR MORSE: No. No, it isn't a lot of leeway. That's standard language. It's to use the general fund. He's asking to use it for \$1 million. The committee gave him authority to use it for \$400,000.

SENATOR KENNEY: Okay.

SENATOR FULLER CLARK: Yes, I have a question of Senator Burling. Senator Burling, am I correct that the Community Technical College is expected to keep a reasonable reserve in their financial accounts in order to be fiscally responsible and what we're now asking them to do is to draw down on that reserve account that could possibly jeopardize their accreditation?

SENATOR BURLING: You're absolutely right. My understanding is there are accreditation requirements under the various accrediting agencies requires the account, requires a specific balance in the account, and by drawing that down, we are putting them further in jeopardy. You know, I had an interesting conversation with someone who's described as the second governor in this state, and he said to me, kind of on the fly, "You know, Senator, you can't govern without money. You have to spend for stuff you really need." That's what this conversation is about. If we care for the future of the economy of this state, we will fund the Vo Tech System.

SENATOR MORSE: I'd just like to clarify that that account replenished itself by almost \$700,000 last year. And while we want to get into whether or not we should fund this system, which I wholeheartedly believe in, understand the capital budget in the Senate, straightened the system out two years ago, to make sure that they built up in Laconia, which we said we were going to do. We already designed it. They didn't do that. I think this system will straighten itself out from an accounting point of view in the next year. They have a great board in place right now and they've taken an accountant from us, which I'm sure Senator Gatsas regrets and may regret more after we have a court case on education funding. But the fact is, he needs time to work. They have not, they have not done anything that needs to be changed at this point. We need to look at Stratham. They're moving over to Pease. We need to look at Laconia. They have a building right next door. This is the same system that had no operating expenses in their budget for the second building that they

were building up in Laconia. We've done our share with this system. Nobody shortchanged them. The system promised the Governor, who called me to tell me that they're all messed up in their accounting, that he was promised they weren't going to raise tuition. So if you give 'em \$1 million, is that a guarantee again? We didn't get it last time. The fact is, we're going a long the way. This account will get replenished. We've given them only this opportunity to use. We've closed that down. They can only do it this time. So the fact is, I think it was a smart way to run the finances of the state of New Hampshire, like you'll see with most of what we've done today.

SENATOR BARNES: Thank you, Mr. President. Of Senator Burling if you would please? Senator Burling, I have your amendment in my hand, and I'm on line five. It says that it's going to "enable the regional community-technical college board of trustees to maintain a tuition at its present level." Can you explain how that \$1 million that you're looking for is going to do that? I'm a little naive and I don't understand where that...we give 'em a million dollars. Where's it going to go, and how do we know that the 38,000 students in the system are going to have their tuition kept where it is, for a million dollars?

SENATOR BURLING: I can only answer in the ordinary parlance of people talking to one another. I am assured by people who represent the system, that with a million dollar appropriation, not the \$400,000, the trustees will be able to manage their affairs so that the current tuition schedule will remain in place and in effect. And Senator, that is the result I'm after.

SENATOR BARNES: Follow up, Mr. President? That doesn't answer my question, I guess. I really want to know where that million is going to go. How is it going to be spent? That is my question to you. We give them a million bucks, where's it going to go? I've heard what the people have told you. They came to see me, too, two or three weeks ago. Give me the same story they gave you, but I don't understand. We give them a million dollars, please tell me where it's going to go. Is it going to the library? Is it going to salaries? Where is it going?

SENATOR BURLING: Well, Senator, as I'm sure you know, I don't have the Vo Technical College budget in front of me. What I have is the promise of a group of people who run that. And since that group of people happens to include some people that I trust, including a former governor, a few business people, a few folks who are at the bedrock of New Hampshire, I have to say I'll give them as much trust as I give to any commissioner who comes to us with the same kinds of promises. We have to trust at some point, Senator.

SENATOR BARNES: I love trust, but when you're talking a million dollars, that's a lot of trust.

SENATOR BURLING: No, it's a lot of level tuition, Senator.

SENATOR MORSE: I've got a question of Senator Burling. Senator Burling, I'm having a hard time figuring this out, because the same institution asked for \$1.2 million to have level funding so the tuition was going to come out even. They asked for \$1.2 million. Now it's acceptable at \$1 million?

SENATOR BURLING: Senator, all I can say is I pressed them as hard as I could press them, and I asked for the number that they felt they could keep level tuition at.

SENATOR FULLER CLARK: Thank you very much. To speak a second time. I would like to address the reason for the shortfall is that in the projections of the budget for the regional community technical colleges, they had anticipated a certain amount of money coming from enrollment. And because the tuition is as high as it is, their enrollment figures, which was part of their budget, the money from that enrollment, did not meet their budget expectations. What this money that they are asking for, is to make up the difference between what they projected in enrollment dollars and what they did not get. It's my understanding that that difference of \$200,000 they feel that they can take by cutting other services around the edges, but they can't cut those services to the tune of \$1.7 million and continue to offer the quality of services that they need. I think we all know that they've also had increased costs just like we've had. Health care costs, energy costs. So, they've already trimmed their budget in the last year, but they still have this gap, and in order for our young people to be able to feel that they can afford to go there, we should be helping them close that gap for this one year, without having to raise the tuition.

SENATOR MORSE: Senator, would you believe they have energy cost in another piece of legislation? And would you also believe that the Senate President asked me to meet with the institution back in, I believe, in the beginning of December, and the document that they presented for \$1.2 million, was the same exact document that was presented to the budget in June? The same document. The stories just changed a little bit lately.

SENATOR FULLER CLARK: Am I supposed to answer that?

SENATOR GATSAS (In the Chair): I think it was a question, Senator.

SENATOR MORSE: I said would you believe?

SENATOR FULLER CLARK: Okay. I understand that that's the information that you have been given, and I acknowledge that. Thank you.

SENATOR LARSEN: Sorry. I just quickly rise to point out to you the language that's in the amendment that's so far has, it relates to this, in that we are requiring them to maintain tuition at its present level, and yet, unless you fund the technical institute, the technical colleges appropriately, they will be required to maintain tuition at their present level for the '06/'07 academic year, but you are not giving them enough funds to do that. And you are requiring in essence, without it being said, that that money come from the reserve account that they have, which would then be, I understood, the reserve account would go to dangerously low amounts.

SENATOR MORSE: Senator, would you believe we had a 7-0 vote in committee for that amendment with the understanding that we wanted them to do that?

SENATOR LARSEN: And I would believe it was 7-0 simply because some money to the college program, the technical college program, is better than no money, and it gets it to Conference Committee. So some of us voted, even though we knew it was not the ideal amendment. Sometimes we vote yes on inching our way along.

SENATOR GATSAS (In the Chair): Well, we're inching our way along today.

SENATOR GREEN: I'll try to get a couple more inches along here, Mr. President. Thank you, Mr. President. Look, I am a sponsor of this legislation, and I was instrumental in agreeing when we had the first numbers presented to us, that \$1.2 million was a number that we could live with in terms of maintaining the tuition. I think this bill gives a \$1.2 million to the tech program. It isn't because the money isn't there. What the argument is, where do you want to take the money from? In fact, there's more than that. We even bonded some money of \$600,000. We also give the Vo Tech money for their over cost and for energy costs in another bill. So we're doing what we were asked to do. What the argument is, basically, do they really want to take the money out of the special account? And those of us that looked at this very carefully, think that it is reasonable to take \$800,000 out of that account. You add the \$400,000 general dollars and you've got your \$1.2 million. That's what you got. We've given them the authority **TAPE CHANGE** where the money should come from. And I happen to believe that the Finance Committee did the right thing under the circumstances. When we put it all together, there were seven of us there, we all agreed that that was the way to go. So here we are fighting again over the issue of whether we're going to spend more general fund dollars when we really don't have to. There's nothing wrong with that account money being used for helping offset tuition. It's a legitimate use of that account. And that account continuously gets additional funds on an annual basis. So let's...I mean that's what the argument's about. The argument should not be about them getting the money. They get the money that they ask for in this bill. And I ask you to support the committee. Thank you.

SENATOR BURLING: I just want to say this plain. I represent an area of the state that has people who need the services of this college system. They need these services, these educational services, without increasing tuitions. We just spent twenty minutes talking about which pocket we can grab the money out of, but we lose track every time about whether or not the tuition bills will go up for the people who need the education offered by the Vo Techs. Please, think of those of us who represent the poorer parts of the state who rely on these systems. We need to have absolute guarantee that these tuitions will not go up. A million dollars will get us that. I'm told that \$400,000 will not. It's as simple as that. This isn't about punishing the system. It isn't about counting coup with the Board of Trustees. It isn't even about what may or may not have been sloppy bookkeeping or poor accounting. It is about the need of the students who have a right to expect that we will give this education to them, and the hope, Senator, that just this year, there won't be another forced increase in their tuition level. We can do it. We ought to do it. Thank you.

**The question is on the adoption of the floor amendment.**

**A roll call was requested by Senator Burling.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Burling, Odell, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**The following Senators voted No: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**Yeas: 8 - Nays: 15**

**Floor amendment failed.**

Senator Larsen offered a floor amendment.

Sen. Larsen, Dist. 15

**May 2, 2006**

**2006-2148s**

**04/10**

**Floor Amendment to HB 1459-FN-A**

Amend the title of the bill by replacing it with the following:

**AN ACT** making an appropriation to the department of regional community-technical colleges for tuition mitigation; authorizing the temporary use of the department of regional community-technical colleges nonlapsing account for tuition mitigation; and making a bonded capital appropriation to the department of regional community-technical colleges for construction of a health education center nursing wing at the New Hampshire technical institute in Concord.

Amend the bill by replacing sections 1-2 with the following:

1 Department of Regional Community-Technical Colleges; Appropriation. The sum of \$400,000 for the fiscal year ending June 30, 2007 is hereby appropriated to the department of regional community-technical colleges to enable the regional community-technical college board of trustees to maintain a competitive tuition rate for the 2006-2007 academic year. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

2 Regional Community-Technical College System; Use of Nonlapsing Account. The commissioner of the department of regional community-technical colleges, with the prior approval of the fiscal committee of the general court and the governor and council, may use funds in the nonlapsing account established in RSA 188-F:14-c to enable the regional community-technical college board of trustees to maintain a competitive tuition rate for the 2006-2007 academic year. This authority shall expire on June 30, 2007.

**2006-2148s**

**AMENDED ANALYSIS**

This bill:

I. Makes an appropriation to the department of regional community-technical colleges for tuition mitigation and authorizes the temporary use of the department of regional community-technical colleges nonlapsing account for tuition mitigation.

II. Makes a capital appropriation to the department of regional community-technical colleges for construction of a health education center nursing wing at the New Hampshire technical institute in Concord.

SENATOR LARSEN: I move to propose floor amendment 2148s.

SENATOR GATSAS (In the Chair): Floor amendment 2148 has been presented. Will you speak to it as it's being passed out?

SENATOR LARSEN: As it's being passed out. This amendment is repeating the \$400,000 that just passed this group, but it changes a slight bit in the wording. Under the way it was just passed, the language says that the trustees have to maintain tuition at the present level using the \$400,000 to do that. That requires them to spend down their reserve account. I was never assured that they could do that and still keep their requirements for reserve accounts under accreditation standards or what-

ever else is required. The language that you have in this floor amendment gives the Board of Trustees, and they have requested this amendment, the ability to maintain a competitive tuition rate. If you say that they have to maintain the tuition at its present level and you only get \$400,000, you are requiring them to go in and draw down the amount of their reserves by \$800,000. The language that you have before you simply gives the trustees a little more space to maintain a competitive tuition rate with the money that's given and have...and allow them to make those decisions. You know, there are times when we try to micromanage the technical colleges or other agencies of this state, and in fact, the technical colleges are an agency of the state. In this case, let's give those trustees a little bit of trust that they will in fact do their best to maintain competitive tuition rates with the money given, but not require that tuition be maintained at its present level, when we know it's very difficult for them to do as we've funded them. It's a very small word change, but it's a big deal on the request of the trustees and the advocates for the technical college system.

SENATOR GREEN: I have seen this amendment prior to it getting here, and the issue becomes one of whether or not they have \$1.2 million to offset the increase in tuition. My position is, they have \$1.2 million. They don't have just \$400,000. They have \$400,000 in general fund dollars and they have the authority to use \$800,000 from the special account. So the language that says they should maintain tuition, gives them \$1.2 million to accomplish that goal. Now what this amendment basically will do, is say, okay, you don't have to maintain tuition, you have to have a competitive tuition rate. What they're really do there, as far as I'm concerned, is saying what they've been saying along, is they don't want to spend any money out of that special account. Now that's a policy decision that this legislature is going to make about whether they have to use some money from that account to offset tuition, which they can, by the way, legitimately do. So it's not like they can't do it, they just don't want to do it. If you want them to maintain tuition rates at their current level, and they need \$1.2 million to do that, they have the ability to do that. And this legislation, without this amendment, would require them to do that, and would require them in order to accomplish that, take \$800,000, up to \$800,000 from that account. So you know, we're playing semantics here. Do they have the money or don't they have it? Can they maintain tuition or can't they? My position is, they can maintain it, and they have the money to do it based on the legislation that's before you, before this amendment came to the floor. I looked at this carefully. I'm very concerned about the same issue. I want to make sure, 'cause I was part of the discussions two years ago or a year ago, when they made a commitment to the Governor that they would maintain tuition. And they gave a budget that said could do that. And it didn't happen. Now they may have some legitimate reasons for that not happening, fine. But all I'm going on now is what they've told me. They need \$1.2 million to maintain tuition rates. I'm telling you, there's \$1.2 million there. They just don't want to use it out of one, out of a certain account, and I think that's a policy decision that this legislature should make and direct them to do that. Thank you.

SENATOR HASSAN: Thank you. Of Senator Green?

SENATOR GREEN: Yes.

SENATOR HASSAN: Senator Green, thank you for taking my question. Have you talked with the trustees or their representatives about this issue of whether the accreditors require them to keep a certain amount of money in the reserve account?

SENATOR GREEN: No, I have not talked to them about that specific issue. But I do know that that money is continuously replenished. It's not like we're going to drain that account and they're not going to have any money in it.

SENATOR HASSAN: You're comfortable with that?

SENATOR GREEN: Yes, I am.

SENATOR HASSAN: Thank you.

SENATOR ODELL: Thank you. For Senator Green? Senator Green, in our committee meetings, did I hear that there is some number such as half a million dollars below which they should not go in that fund? Have you heard of a specific number?

SENATOR GREEN: No, I have not. All I know is that account, if we take the \$800,000 out of it, there's going to be about half a million dollars left in that account.

SENATOR ODELL: Follow up? It's my understanding that the funds there come from excess revenue over costs from students.

SENATOR GREEN: Correct.

SENATOR ODELL: And that therefore, if in fact, there's a declining number of students, would that adversely impact them, and maybe mean that, for a year or two, they wouldn't have excess revenue over costs?

SENATOR GREEN: I think it will have some impact, but I don't think that they will lose all revenue to those accounts. And I do believe there's enough money in there, even without additional revenues, to maintain what they have to do.

SENATOR ODELL: Further, for the last time?

SENATOR GREEN: They may other plans for that money, obviously, and I'm not privy to that.

SENATOR ODELL: Okay. Thank you. Is there any reason, if a representative came to you or me today and said "we can't use that funds". Is there credibility in that? Your feeling seems to be that we have...that they have wide discretion in terms of the use of that money, and that they can use that money for operations that'll reduce their costs and therefore, take away the necessity of a rate increase.

SENATOR GREEN: No. There's a state law that specifically identifies what they can use the funds for. And, based on our language in this bill, tuition itself, to offset tuition, may be used for those purposes. The question is whether they have other plans for those dollars versus what we're directing them to do. I think that's what really is behind the debate.

SENATOR ODELL: Thank you, Senator Green.

SENATOR MORSE: Thank you, Mr. President. I think Senator Green hit it on the head. Our plan was \$1.2 million, the way we structured it. So there should be no tuition increase. That was the plan. Furthermore, \$610,000 for what they couldn't collect to finish the project in Concord, we bonded that. Furthermore, and I'm surprised the University of New Hampshire didn't come, because they're not on here, but you're going to

be debating a bill later that gives them \$700,000 in energy costs. Now they want to be treated like the University of New Hampshire, but yet they can come for energy costs. We approved it in committee. We'll probably vote on it today and approve it. I think we've been more than fair. We didn't go back to them and say, cut your energy costs. I'm sure that's what had to happen at the University of New Hampshire. I'm sure someone there in the presidency said, we've got higher energy costs, something's either going to go or you're going to turn down the lights, or you're going to turn down the heat, you're going to do something, but we're not going back to the legislature for more money. But yet, this institution can. I mean, we can debate their financial, Senator, and what's right or wrong, when they came and they needed money for a capital item in June. Went through the whole budget process on the capital side, and they come back to Fiscal, what six months later, and say, "Oops, we made a mistake, we need to hit this account, that we know we didn't have before but it's here now."? Well good thing they pointed it out, because we just hit the same account and gave them the authority to do it. It'll work, and it should keep tuitions where they're supposed to be., where they said they would keep them.

**Recess.**

**Out of recess.**

Senator Larsen withdrew her floor amendment.

**The question is on the adoption of the bill as amended.**

**A roll call was requested by Senator Flanders.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: None.**

**Yeas: 23 - Nays: 0**

**Adopted.**

**Ordered to third reading.**

**HB 1464-FN-A-L**, relative to mosquito control, establishing a mosquito control fund and making an appropriation therefor. Finance Committee. Ought to pass with amendment, Vote 8-0. Senator Larsen for the committee.

**Senate Finance**

**April 24, 2006**

**2006-1994s**

**01/09**

**Amendment to HB 1464-FN-A-LOCAL**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to mosquito control, establishing a mosquito control fund, making an appropriation therefor, and relative to a public health response to arbovirus.

Amend the bill by replacing all after the enacting clause with the following:



1 New Sections; Communicable Disease; Mosquito Control Districts; Mosquito Control Fund. Amend RSA 141-C by inserting after section 23 the following new sections:

141-C:24 Mosquito Control Districts; Rulemaking. Contiguous municipalities may establish mosquito control districts for the purposes of applying for moneys from the mosquito control fund established in RSA 141-C:25 and for the purposes of applying for spraying permits. The commissioner, in consultation with the commissioner of the department of agriculture, markets, and food shall adopt rules, pursuant to RSA 541-A, relative to the establishment of such mosquito districts.

141-C:25 Mosquito Control Fund.

I. There is hereby established a nonlapsing and continually appropriated mosquito control fund to assist cities, towns, and mosquito control districts by providing funding for the purpose of offsetting the cost of mosquito control activities including, but not limited to, the purchase and application of chemical pesticides. The purpose of the fund is to provide financial assistance, when needed, to cities, towns, and mosquito control districts engaging in mosquito control and abatement activities in response to a declared threat to the public health. Any balance remaining in the mosquito control fund at the close of the fiscal year ending June 30, 2009 shall lapse to the general fund.

II. In order to be eligible to receive funding, a city, town, or mosquito control district shall have in place a comprehensive mosquito control plan approved by the commissioner. This plan shall include at a minimum:

(a) A list of the pesticides (active ingredient) and methods by which these pesticides will be applied to ensure that the application is done in a safe and proper manner.

(b) Safeguards that will be taken to protect the health of the public, wildlife, and resources within the state including provisions for the measuring and monitoring of residual pesticides in the water and soil.

(c) A comprehensive public awareness campaign geared toward prevention and designed to educate the public about the health risks associated with mosquitoes.

(d) Appropriate abatement measures.

III.(a) The commissioner, in consultation with the Centers for Disease Control and Prevention, and with the concurrence of the governor, may determine that a threat to the public health exists that warrants expedited mosquito control and abatement activities within a city, town, or mosquito control district. Such determination shall be based on local factors which may include:

(1) Historical and current climatic conditions.

(2) Historical and current mosquito population indices.

(3) Historical and current mosquito, veterinary, and human arboviral disease surveillance.

(b) An expedited approval process shall be established for the implementation of mosquito control and abatement activities, including the application of pesticides. The commissioner of the department of agriculture, markets, and food may authorize expedited mosquito control and abatement activities pursuant to this paragraph.

IV. A city, town, or mosquito control district shall be eligible to receive funds if the commissioner determines that:

(a) The city, town, or mosquito control district has a comprehensive mosquito control plan approved by the commissioner in accordance with paragraph II;

(b) The city, town, or mosquito control district has engaged or plans to engage in mosquito control and abatement activities pursuant to paragraph III;

(c) The commissioner, after consultation with the Centers for Disease Control and Prevention, has determined that mosquito control and abatement activities are appropriate to mitigate the public health threat; and

(d) A threat to public health has been determined in accordance with paragraph III.

V. A city, town, or mosquito control district's receipt of funds, as well as the amount of funding, shall be at the discretion of the commissioner. In exercising his or her discretion, the commissioner shall consider the following criteria:

(a) The nature and degree of the declared threat to the public health.

(b) The nature and degree of the city, town, or mosquito control district's mosquito control and abatement activities in response to the declared threat to the public health.

(c) The city, town, or mosquito control district shall show cause why funding assistance from the mosquito control fund is necessary.

(d) Funding from the mosquito control fund shall not exceed 25 percent of the cost of mosquito control and abatement activities pursuant to the declared threat to the public health.

(e) Funding is available.

2 New Paragraph; Rulemaking Added. Amend RSA 141-C:6 by inserting after paragraph XXI the following new paragraph:

XXII. Procedures for administration of and disbursement from the mosquito control fund, established in RSA 141-C:25.

3 Appropriation. There is hereby appropriated the sum of \$218,625 to the department of health and human services for the biennium ending June 30, 2007, for the purposes of this act. Of this amount, \$158,625 shall be used for the purpose of funding the mosquito control fund established by section 1 of this act and \$60,000 shall be used by the department for purposes of funding mosquito surveillance activities. This appropriation shall be reduced by the amount of any federal funds received by the department for these purposes. This appropriation shall be in addition to any other funds appropriated to the department of health and human services for these purposes. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

4 New Paragraph; Exemption Added. Amend RSA 430:46, I by inserting after subparagraph (d) the following new subparagraph:

(e) Expedited mosquito control and abatement activities pursuant to a declared threat to the public health under RSA 141-C:25, III.

5 Task Force Established. There is established a task force to facilitate a coordinated local, regional, and state response to arboviruses in New Hampshire.

6 Membership and Compensation.

I. The members of the task force shall be as follows:

(a) Two members of the senate, appointed by the senate president.

(b) Two members of the house of representatives, appointed by the speaker of the house of representatives.

(c) The state epidemiologist.

(d) The state veterinarian.

(e) The commissioner of the department of health and human services, or designee.

(f) The commissioner of the department of agriculture, markets, and food, or designee.

(g) The commissioner of the department of resources and economic development, or designee.

(h) The executive director of the fish and game department, or designee.

(i) The commissioner of the department of environmental services, or designee.

(j) A representative from county government, appointed by the governor.

(k) An entomologist from the university of New Hampshire, appointed by the governor.

(l) Three locally-elected officials from towns or cities where arbovirus has been detected in animals or humans, at least one of whom shall be a public health officer, appointed by the governor.

(m) Two private citizens, each a landowner, officer, one of whom shall be nominated by the New Hampshire Farm Bureau Federation, appointed by the governor.

(n) Two members at-large, appointed by the commissioner of the department of health and human services.

II. The task force shall serve without compensation and may solicit any information from any person or entity the task force deems relevant to its purpose.

7 Duties. The committee shall:

I. Determine the coordination of and planning for mosquito control efforts, including a method to enable communities throughout the state to form mosquito control districts, or to be able to join together informally to file joint applications to engage in larvaecide or adulticide spraying.

II. Determine who should have certain mosquito control responsibilities according to expertise throughout the state.

III. Review and, if necessary, streamline state governmental processes required to implement mosquito control programs.

IV. Plan and coordinate public education and outreach regarding mosquito-borne illness.

V. Apply for funding from private and public sources for the purposes of responding to arbovirus threats.

VI. Determine a method to enable communities to order the removal of standing water hazards on private property and to levy fines on the property owner if necessary.

VII. Establish a mechanism to work with landowners for determining when a pond, marsh land, or wetland on private property is found to be creating a standing water hazard and a method to permit local communities to receive assistance from the fish and game department and the department of environmental services to determine if the standing water hazard can be removed.

VIII. Establish procedures for determining what, if any, mosquito control efforts will be undertaken in state parks.

IX. Establish a mechanism to protect certified organic farms from being treated with products that would void their certification.

8 Chairperson; Quorum. The members of the task force shall elect a chairperson from among the members. The first meeting of the task force shall be called by the first-named senate member. The first meeting of the task force shall be held within 45 days of the effective date of this section. Six members of the task force shall constitute a quorum.

9 Report. The task force shall make an interim report on or before November 1, 2006 with a report of its findings and any recommendations for proposed legislation and a final report on or before November 1, 2007 to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library.

10 Effective Date. This act shall take effect July 1, 2006.

## **2006-1994s**

### **AMENDED ANALYSIS**

This bill:

I. Establishes a mosquito control fund in the department of health and human services to assist cities, towns, and mosquito control districts by providing funding to offset mosquito control activities.

II. Makes an appropriation to the department for the purposes of funding the mosquito control fund and mosquito surveillance.

III. Establishes a 2-year task force for the purpose of facilitating a coordinated local, regional, and state response to arboviruses in New Hampshire.

SENATOR LARSEN: I move that House Bill 1464 ought to pass with amendment. This legislation creates a mosquito control fund to help communities threatened by mosquito borne diseases such as Triple E or West Nile Virus. Communities have to pay up to 75 percent of the costs associated with mosquito control during a declared threat to public health. The state will pay up to 25 percent of the cost with the money from the Mosquito Control Fund. The amendment to the bill allows for rulemaking authority and establishes a task force for facilitating a coordinated local, regional, and state response to arboviruses in New Hampshire. House Bill 1464 appropriates \$158,625 to the Mosquito Control Fund and \$60,000 to continue mosquito surveillance as federal funds for this activity are decreasing. Last year, there were seven human cases of Triple E and two deaths in New Hampshire. It's important to be prepared for these diseases ahead of time. House Bill 1464 will allow DES to be more proactive in their approach to mosquito control. DES will also be able to expedite the mosquito spraying permit process if an area needs to be sprayed immediately. The Finance Committee asks your support for the motion of ought to pass with amendment.

SENATOR HASSAN: Thank you, Mr. President. I rise in support of the committee amendment, and to thank my colleagues in the Finance Committee and in the House for their work on this bill and the amendment. The amendment, I believe, represents a good blending of the Senate Bill that we passed and the House policy committee passed, which was Senate Bill 373, along with the House Bill 1464. So I urge my colleagues to support this amendment. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1474-FN**, relative to unemployment compensation contribution rates and benefits. Finance Committee. Ought to pass with amendment, Vote 7-0. Senator Clegg for the committee.

Sen. Clegg, Dist. 14

**April 25, 2006**  
**2006-2015s**  
**08/09**

**Amendment to HB 1474-FN**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to unemployment compensation contribution rates and benefits and establishing a commission to investigate the feasibility of merging the department of employment security into the department of labor.

Amend the bill by replacing all after section 1 with the following:

2 Minimum Rate. RSA 282-A:82 is repealed and reenacted to read as follows:

282-A:82 Minimum Rate.

I. The commissioner shall compute the amount to be subtracted from every employer's contribution rate for the 4 calendar quarters during a calendar year by determining the available balance in the unemployment compensation fund on September 30 of the preceding calendar year. The amount to be subtracted from every employer's contribution rate for the 4 calendar quarters during a calendar year shall be as follows:

(a) Whenever the unemployment compensation fund equals or exceeds \$225,000,000 on September 30 of the preceding calendar year, the amount to be subtracted shall be .5 percent.

(b) Whenever the unemployment compensation fund equals or exceeds \$250,000,000 on September 30 of the preceding calendar year, the amount to be subtracted shall be one percent.

(c) Whenever the unemployment compensation fund equals or exceeds \$275,000,000 on September 30 of the preceding calendar year, the amount to be subtracted shall be 1.5 percent.

II. The minimum contribution rate under this section shall be not less than .01 percent.

3 Commission Established. There is established a commission to study the feasibility of merging the department of employment security into the department of labor.

4 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) One member of the senate, appointed by the president of the senate.

(b) One member of the house of representatives, appointed by the speaker of the house of representatives.

(c) The labor commissioner, or designee.

(d) The commissioner of the department of employment security, or designee.

(e) A member of the workforce opportunity council, appointed by the council.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

5 Duties. The commission shall investigate the feasibility of:

I. Merging the department of employment security into the department of labor;

II. Eliminating the position of commissioner of the department of employment security;

III. Increasing the term of the labor commissioner to 5 years from the date of appointment;

IV. Giving the department of labor 6 to 8 months to adopt appropriate rules to implement the reorganization, including authority to reassign current department of employment security staff as appropriate to effect necessary efficiencies during the reorganization.

6 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section.

7 Report. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 15, 2006.

8 New Paragraph; Duties of Commissioner. Amend RSA 282-A:112 by inserting after paragraph V the following new paragraph:

VI. The commissioner shall not close any district office nor reduce services or hours of operation without the prior permission of the fiscal committee.

9 Effective Date.

I. Section 1 of this act shall take effect July 1, 2007.

II. Section 2 of this act shall take effect July 1, 2006.

III. The remainder of this act shall take effect upon its passage.

## 2006-2015s

### AMENDED ANALYSIS

This bill increases the amount of unemployment compensation available to claimants and adjusts the taxable wage base.

This bill changes the employer's contribution to the unemployment compensation fund.

This bill establishes a commission to investigate the feasibility of merging the department of employment security into the department of labor.

This bill prohibits the commissioner of the department of employment security from closing district offices without the permission of the fiscal committee.

SENATOR CLEGG: Thank you, Mr. President. I move House Bill 1474 ought to pass with amendment. The legislation increases the maximum weekly benefit amount for unemployment claims. This is a common practice and has been done each year by the Legislature from '98 to 2002, and we only missed one year, the year 2000. Rather than broadening the taxable wage base from \$8,000 to \$9,000, this bill changes the deduction that positively rated employers receive when the Unemployment Trust Fund reaches certain levels. Broadening the taxable wage increase by \$1,000 would cause a tax increase of \$19 million to New Hampshire employers. This will keep the trust fund balance intact without levying a tax increase to New Hampshire businesses. The bill also creates a study to examine the feasibility of merging the Department of Employment Security into the Department of Labor. There were concerns that district offices were slated for closure unnecessarily. This bill prohibits the Commissioner of Employment Security from closing any district office, reducing hours of operation without the approval of the Fiscal Committee. The Finance Committee asks for your support for the motion of ought to pass with amendment.

SENATOR KENNEY: Thank you, Mr. President. I'm a co-sponsor to House Bill 1474-FN and I'm not in favor of the amendment that's being offered out of committee. When I first signed onto this bill, I saw that Representative Bishop from the House, who's a long-term Labor Committee

member, was a sponsor on this, who I have a lot of regard for. He follows the labor trends and the economic indicators for the state, and has served on that committee for numerous years. I also noticed that Representative Mirski also is a co-sponsor, who's conservative in the House, and also I saw Senator Clark. And I'm not sure if I've seen Senator Clark and Representative Mirski on a recent bill. But basically what this bill does, there's four things that it does. The weekly benefit amount is increased to keep it in line with the current average wages in New Hampshire. Second, it raises a taxable wage base, as has been indicated, from \$8,000 to \$9,000 in order to keep the trust fund balanced above the \$250 million so that the employers will keep the discounted rates that they now receive. Third, it allows the DES to access additional administrative funds to make up the federal cuts, and all local offices and personnel will be maintained. And fourth, it brings a steady stream of funding for the business training fund to help workers upgrade their skills. Now there's some possible questions that, you know, that the body might ask. Does this hurt small businesses by raising taxes? I don't believe it does in the immediate long-term. House Bill 1474 actually has the support of the Small Business Association of New England. Small employers avoid laying off workers at all costs because they simply cannot afford to. Because of the small employers, almost always have the lowest tax rates, in reality, end up paying very little unemployment taxes at all. House Bill 1474 protects the tax discounts that make it possible for small businesses to earn their low tax rates by ensuring the trust fund remains at healthy levels. Now there's another question that you might ask. How can they build that as increasable tax wage? Base actually save businesses taxes. Increasing the taxable wage base to save tax dollars is the same practice the Department has been doing for many years. The taxable wage base was last raised in 1994 and in 1983 for that purpose. Increasing the wage base allows more tax dollars to flow into the trust fund, which in turn, increases the overall balance of the fund. A higher overall balance in the trust fund earns higher tax discounts for the tax...excuse me, for the employers. Now this bill ensures employers earn tax discounts by lowering the trust fund triggers. House Bill 1474 as amended actually leaves the original triggers in place. \$225 million equals .5 percent. \$250 million equals 1 percent, and \$275 million equals 1.5 percent. The amended version of House Bill 1474 does not ensure employers will continue to receive tax discounts; it only changes the mechanisms for deciding the employers' tax discount from quarterly to annually. Now it's a philosophical debate on whether you want to put more monies into the trust fund or not. No one can predict the future, but I would hope and think that New Hampshire is going to be very viable in the next few years. I also want to talk to, there's been some discussion in regard to this amendment, about merging the Department of Employment Security into the Department of Labor. Now this was prior to 1957, the Employment Security was under the Department of Labor. And so I asked myself, what have we done in the last fifty years that make us want to revisit this issue? Now we visited this issue in 1997, when I then served on the Labor Committee. It was at that point the committee felt, in the absence of any known problems, no study was necessary. Okay? And, at that point, they went ahead and inexpedient to legislate the bill 18-1. So I'm asking my question. My question is, are there any immediate problems with both those agencies and are we trying to merge them for a reason? Now I appreciate cost savings, and obviously, if that was a primary focus, then I would, you know, revisit

the amendment, but I hope that's, that we would not pass this amendment because I think both departments are running up and well and doing what they need to for the people of New Hampshire, particularly the unemployed. Lastly, there has been some discussion about, incidentally, there was a question about losing veterans' counselors at these various employment agencies. I never want to see veterans be played as a pawn in any political game in this state. And I say that passionately. I remember being in the Northern Virginia Realtors Association meeting many years ago as a Reserve Sergeant, and there was a man there who was in a chair. He was in a wheelchair. And he said, "You know, young Marine, I've never had the pleasure of serving in uniform", but he said, "I'm no less a patriot than you are." And I've always remembered that. So let's not say that you're a veteran or that you're non-veteran. We're Americans, and we're taxpayers, and we're citizens of New Hampshire. And so let's never play that card game. I would just simply say that the veterans do not need to be concerned, that their veterans' counselors will be in place under any circumstances to take care of that community when they're coming back from war looking for a job or if they're unemployed. So with that, I would ask you to not support the amendment. Thank you, Mr. President.

SENATOR FULLER CLARK: Thank you very much, Mr. President. I, too, rise in opposition to the amendment and in support of the regular bill. As a co-sponsor, I believe that we are doing the responsible thing for this department and also for the unemployed in New Hampshire. The reason that this change needs to take place is because the federal government has cut its support for unemployment services in our state and across the country. Our unemployment department has one of the finest records in terms of putting people back to work in a reasonably short period of time, and we should do everything that we can, particularly in light of what we have seen happen over the last two or three months with layoffs, to provide a system that will work for this department. I believe that the amendment interferes with that system going forward and working effectively. I believe there is no reason to consider merging these two departments given the high record of performance of the Department of Unemployment Insurance, and I urge you to defeat the amendment and pass the original bill. Thank you.

SENATOR BURLING: Thank you, Mr. President. Mr. President, inasmuch as this question is clearly divisible, I request that the question be divided.

Senator Burling moved to divide the question.

**Recess.**

**Out of recess.**

Senator Burling withdrew his request to divide the question.

### **PARLIAMENTARY INQUIRY**

SENATOR BURLING: Parliamentary inquiry? Was it clear to everybody that I had withdrawn my request for a division as to this vote?

SENATOR GATSAS (In the Chair): It's clear now, Senator.

SENATOR BURLING: Thank you.

### **PARLIAMENTARY INQUIRY**

SENATOR GREEN: Parliamentary inquiry?



SENATOR GATSAS (In the Chair): Parliamentary inquiry, Senator Green.

SENATOR GREEN: Would you please state what we're voting on, Mr. President?

SENATOR GATSAS (In the Chair): Right now we are voting on the adoption of the committee amendment.

**The question is on the adoption of the committee amendment.**

**A roll call was requested by Senator Burling.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Boyce, Green, Odell, Roberge, Clegg, Barnes, Morse.**

**The following Senators voted No: Kenney, Burling, Flanders, Eaton, Bragdon, Gottesman, Foster, Larsen, Gatsas, Martel, Letourneau, Estabrook, Hassan, Fuller Clark.**

**Yeas: 9 - Nays: 14**

**Amendment failed.**

**Recess.**

**Out of recess.**

### **MOTION OF RECONSIDERATION**

Senator Letourneau having voted with the prevailing side, moved reconsideration of **HB 1474**, whereby the committee amendment failed.

**Adopted.**

**HB 1474**, relative to unemployment compensation contribution rates and benefits.

**The question is the adoption of the committee amendment (#2015).**

**A roll call was requested by Senator Burling.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Boyce, Green, Flanders, Odell, Roberge, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**The following Senators voted No: Kenney, Burling, Eaton, Bragdon, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**Yeas: 13 - Nays: 10**

**Amendment adopted.**

SENATOR BURLING: Thank you, Mr. President. Mr. President, the question being readily divisible, I request its division.

SENATOR GATSAS (In the Chair): The question before the body is whether they want to divide the question or not. All in favor of dividing the question.

### **Point of order**

SENATOR BURLING: Point of order?

SENATOR GATSAS (In the Chair): Yes.

SENATOR BURLING: Mr. President, we have bumped around this point several times, but now we really need to make it clear. Our rules make it clear that any member may request a division if the question is divisible and the determination of divisibility is based upon whether the two parts may be divided and stand alone. And it's pretty clear in this situation, that that's exactly where we are. One, the tax information part of this, clearly can stand independent of, and the commission can stand independent of the tax part. I have the right to request that division, and it does not require a vote of the majority of the Senate, not according to our rules.

SENATOR GATSAS (In the Chair): According to the rules, it's a parliamentary question. According to the rules, I can ask the body in their choice, whether they want to divide the question. We've done that in the past.

**Recess.**

**Out of recess.**

Senator Burling moved to divide the question.

SENATOR GATSAS (In the Chair): The question before the body is on the division of the amendment. All in favor or dividing the question? Division of the "bill", excuse me. Division of the bill. All in favor of division of the bill? All opposed to dividing the bill? The amendment has been voted on. The final passage of the bill. We're on the final passage of the bill. The question before the body is division of the bill or the amendment as we voted.

SENATOR BURLING: Thank you for the tolerance. Just for the record to be clear. I stood in accordance with what I thought the established Senate rule was - that a member may stand and request the division of a question before the body. That process is ancient on both sides of that wall. When a member stands and requests division, what happens is the presiding officer makes a determination as to whether the question is divisible or not. My understanding of the traditions of both the House and Senate is, that the "division determination" made by the presiding officer, determines, unless challenged by the entire body. I made a request that you make a determination that this was divisible, as I believe it patently is. That is the question we hoped you would decide if you found that it is capable of division. My understanding, Mr. President, is that you have to divide it, and let us vote. And, it is also my understanding, Mr. President, that this is one of the last minority rights that attaches in this body. The minority has the right to divide a question into its component parts. Thank you.

SENATOR GATSAS (In the Chair): Well, Senator Burling, I think this is the second time that we've talked about division, you and I. And I think that the first motion that I ruled on was that this entire body would always take precedent over any one Senator. I believe that that's the fact. I believe that there's twenty-four Senators doing their work in here. And I certainly believe that everybody should have an opportunity to vote on anything that comes before this body. So with that, I've ruled that the body will determine whether the question is divisible, as I did the first time.

SENATOR BURLING: Then it is, Mr. President, with great sadness, that I challenge the chair on this sole issue, as to what the Senate rule is relative to the division of a question.

Senator Burling challenged the ruling of the Chair.

SENATOR BARNES: I don't like to rise up here, but I'm going to rise up. I've been in this chamber for a darn long time. I used the good word, Ted, so you can't gavel me down for being out of order.

SENATOR GATSAS (In the Chair): Thank you, Senator.

SENATOR BARNES: Peter, I admire you, I respect you, and I respect everybody in this chamber. I'm going to tell you something. You're putting this up here, is something we shouldn't be doing. It should not happen in this chamber. When we had a democratic style president, years ago, there were a couple of real conservatives in here that wanted to challenge them all the time. I was new here, but Junie Blaisdell told me that this chamber is more important than any damn individual. And I would love to see you reconsider that, because I don't think it's a right thing to do. Please, remove that request.

SENATOR LARSEN: Mr. President. When we're talking about respect, we are talking about there is great respect for the office of the Senate President, and this issue has nothing to do with respect for the job you've done. This issue has to do with respect for minority rights. The democrats in this chamber are in the minority. There are very few procedural motions which a democrat, being in the minority, can make. There are eight of us. It has been a tradition that division of an issue, if it can stand alone, if the sense of the bill is that it could become a law on its own, or be a law without that division, that it is a divisible question. That is how we've interpreted the rule. There was an issue a few months back about dividing the question. There was a dialogue. But the sense of the minority in this chamber, is that there is a right to divide a question that has the ability to stand on its own as a law, and that's why we ask to divide the question.

SENATOR BARNES: Thank you. I certainly don't want to trample on anybody's feelings, 'cause I don't look at you as a minority party, Senator Larsen. I look at you as an equal colleague, for representing 55,000 people like the rest of us. This isn't a republican or democratic thing, and please don't say it's not a slap at the Senate President, because it certainly is. It's something that we just don't do. If it was a democrat, if that was you up there, Senator Larsen, I would give the same talk on this floor. I would ask my colleagues not to do it. I think it's a disgrace to this chamber to do it and I don't think this chamber needs that to happen. And this chamber means a heck of a lot to me, as I know it does to you and everybody else sitting here or you wouldn't be sitting here. Now let's not disgrace this chamber. For Gods sakes almighty! It's ridiculous. Please, don't do it.

SENATOR BURLING: There is no way I cannot respond to the remarks of my colleague, Senator Barnes. Everybody in this House knows of the affection I feel for the President and the honor I give to his office. I have been in this legislature too many years not to have those emotions. Had I any other emotion, I would have left a long time ago. But the fact of the matter is, there is nothing in our rules or process that allows us to raise this issue, which is critical to us as a one-third minority, except to do what I've done. In fact, in the five minutes before we came through that door, at least three of you said, "Well, go ahead and challenge the chair." This isn't the way I like to do it, but it is an important issue to us. Thank you.

SENATOR GATSAS (In the Chair): I guess I've listened to some speeches, and I know that I probably should leave this rostrum. But I faced you all in a trying time, and I told you that I believe this chamber belonged to every one of you. I stood behind the same question two months ago, three months ago. We had the discussion. I told you that I would always allow this body to take that vote. It was clear with what I did then. It was accepted. And it's clear with what I'm doing today. So I will leave it at that. A roll call has been requested, challenge of the chair.

SENATOR ESTABROOK: Thank you, Mr. President. I had asked to speak before the roll call; otherwise I wouldn't at this point. I just wanted to add for the record that it is out of great respect for this chamber that the minority is taking this stand. And it is not a democratic or republican issue, I agree. But it is definitely an issue of the majority and the minority. If the question of dividing something is always left to a vote of the chamber, then the majority will always rule. And would therefore deny the minority what we believe, is its right to have the question divided. And it is for that reason that many of us feel so strongly about this issue, and for that reason, I'm sure that my colleague decided to go so far as to challenge the chair. Your view is that the chamber belongs to all of us and therefore it should go to a vote. The way we see it, and the reason we are taking this stand, is because the chamber belongs to all of us, and all of us have the right to have the question divided, without the majority standing in the way. Thank you.

SENATOR GATSAS (In the Chair): With all due respect, Senator, I could have ruled that the question was indivisible and you would have challenged the chair at that point.

SENATOR BARNES: Can we move the question please?

### **TAPE CHANGE**

SENATOR GATSAS (In the Chair): **TAPE CHANGE** yes, then the chair's motion to not allow...to allow the body to vote will stand. If you vote no, the body then will have the opportunity to have me rule. Question, I got it backwards?

SENATOR CLEGG: So, if the vote is yes, then you agree that the Chair's answer to the question was correct.

SENATOR GATSAS (In the Chair): Allowing the body to vote, yes.

SENATOR CLEGG: And if I vote no, it's because I disagree with the Chair.

SENATOR GATSAS (In the Chair): Correct.

SENATOR CLEGG: Thank you.

### **PARLIAMENTARY INQUIRY**

SENATOR HASSAN: Parliamentary inquiry with apologies, but I thought we were challenging the ruling by the Chair of the divisibility of the question. So are we challenging...is the vote on whether we agree or disagree with the divisibility or is the vote on whether you can ask the majority to rule on that?

SENATOR GATSAS (In the Chair): Well, Senator, I think that...maybe Senator Burling you can tell me what you were challenging the Chair on so we can set this straight.

SENATOR BURLING: Thank you, Mr. President. The question I originally raised was whether this was divisible. You presented that question

to the body. I challenged you on the very limited question of whether Senate rules permit any member to ask for a division or whether that question will be divided...answered by majority rule....vote, of the membership. My understanding, in making my challenge, was to raise just that issue. So my understanding would be, somebody wishing to vote with my view of it, would vote yes, in support of the challenge. Somebody wishing to oppose me would vote no, and supporting your view, Mr. President, that the division question would be answered by majority vote. That's where I thought we were.

**SENATOR GATSAS (In the Chair):** I thought that's where I was too, Senator. So voting yes, on the parliamentary question, supports Senator Burling's challenge of the Chair. Voting no, supports the Chair.

**SENATOR CLEGG:** I'm sorry, Mr. President, one more time.

**SENATOR GATSAS (In the Chair):** One more time. A vote yes supports Senator Burling's request. A vote no balances with the Chair. Everyone take their seats, please.

**The question is on the challenging of the Chair.**

**A roll call was requested by Senator Barnes.**

**Seconded by Senator Letourneau.**

**The following Senators voted Yes: Burling, Eaton, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**The following Senators voted No: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Bragdon, Clegg, Barnes, Martel, Letourneau, Morse.**

**Yeas: 8 - Nays: 14**

**Senator Gatsas abstained from voting.**

**Motion failed.**

**The question is on dividing the question.**

**A roll call was requested by Senator Bragdon.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Burling, Flanders, Eaton, Bragdon, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**The following Senators voted No: Gallus, Johnson, Kenney, Boyce, Green, Odell, Roberge, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**Yeas: 10 - Nays: 13**

**Motion failed.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1590-FN**, relative to the pari-mutuel commission. Finance Committee. Ought to pass with amendment, Vote 8-0. Senator Morse for the committee.

**Senate Finance**  
**April 24, 2006**  
**2006-1987s**  
**09/01**

**Amendment to HB 1590-FN**

Amend RSA 284:15-b, III as inserted by section 3 of the bill by replacing it with the following:

III. The expenses of the commission and the office of attorney general in conducting any investigation authorized in this section, including the services of consultants, experts, accountants and other assistants, shall be a direct charge against the applicant or holder. Total expenses under this paragraph shall not exceed \$50,000, except with the approval of the fiscal committee of the general court.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 1590 ought to pass. This bill would provide the Pari-Mutuel Commission and the Attorney General with the authority to conduct criminal background checks and will give the Commission and the Attorney General's Office the authority to audit and investigate at the applicant or licensee's expense. The committee amendment adds language that requires the Fiscal Committee to approve the cost of an investigation should it exceed \$50,000. This will prevent an investigation from becoming so costly that it no longer becomes a worthwhile investment to apply for a license from the Pari-Mutuel Commission. Please support the Finance Committee recommendation in voting ought to pass with amendment.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1593-FN-L**, relative to the construction of high school athletic fields in the town of Bedford. Finance Committee. Ought to pass, Vote 8-0. Senator Boyce for the committee.

SENATOR BOYCE: Thank you, Mr. President. I rise in favor of ought to pass on 1593, House Bill 1593. And thank you. Nobody handed me these before. I move ought to pass on House Bill 1593. House Bill 1593 allows school building aid to be used to improve municipally owned buildings or lands that could be transformed into an athletic field or another school district purpose. The legislation requires that the cost of the project be cost effective for the town. The Department of Education testified at the hearing that this issue becomes a problem from time to time. They feel that, in the long run, this bill will result in a net savings. Please join the Finance Committee in voting ought to pass.

**Adopted.**

**Ordered to third reading.**

**HB 1603-FN**, relative to administration and enforcement by the division of forests and lands over forest resources and timber harvesting. Finance Committee. Ought to pass with amendment, Vote 8-0. Senator Clegg for the committee.

**Senate Finance**  
**April 25, 2006**  
**2006-2014s**  
**04/05**

**Amendment to HB 1603-FN**

Amend RSA 227-G:2, XVII as inserted by section 2 of the bill by replacing it with the following:

**XVII. “Wood concentration yard” means any site established and used for the purchase and resale of primary forest products from off-site locations and which is not a primary wood processing mill. Any site used primarily to process or store bark mulch shall not be a wood concentration yard.**

SENATOR CLEGG: Thank you, Mr. President. I move House Bill 1603 ought to pass with amendment. The legislation strengthens and fine-tunes existing statutes relative to the Division of Forests and Lands. All forest rangers hired after January 1, 2005 will be required to attend the full-time police academy. This cost for rangers to become full time police officers will come out of the Police Standards and Training Fund, similar to all other officers. The committee learned that there are only twelve officers that will fit this category. The committee amendment exempts “bark mulch yards” from the definition of “wood concentration yards”. The Finance Committee asks for your support on the motion of ought to pass with amendment.

**Amendment adopted.**

Senator Clegg offered a floor amendment.

Sen. Clegg, Dist. 14

Sen. Burling, Dist. 5

**May 3, 2006**

**2006-2151s**

**03/04**

**Floor Amendment to HB 1603-FN**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to administration and enforcement by the division of forests and lands over forest resources and timber harvesting; requiring security officers of the New Hampshire hospital security force to be fully certified as police officers; and including such security officers in group II of the New Hampshire retirement system.

Amend the bill by replacing all after section 8 with the following:

9 Department of Safety; Duties of Commissioner. Amend RSA 21-P:4, XI to read as follows:

XI. Have the discretion to grant to security officers of the New Hampshire hospital security force, **who shall be fully certified as police officers by the police standards and training council**, such titles, ranks, and police powers as the commissioner deems necessary [~~up to and including that of ex-officio constables~~] including the power of arrest for violations of the criminal and motor vehicle laws and the power to serve criminal process, and may limit such powers as deemed necessary. They shall have general police powers on the state office campus and New Hampshire hospital grounds and when in hot pursuit of a person who has committed a crime on the campus or escaped from the hospital, and when acting to transport a patient to or from the hospital, the court, or another mental health facility.

10 Authority of Hospital Security Force Officers. Amend RSA 21-P:7-c, I to read as follows:

I. All security officers of the hospital security force shall possess such police powers as are granted to them by the commissioner of safety pursuant to RSA 21-P:4, XI. All officers of the hospital security force [~~hired after the effective date of this paragraph~~] shall be required to

~~[meet the training standards required generally of]~~ ***be fully certified*** as police officers by the police standards and training council pursuant to RSA 188-F and in addition shall receive additional training in dealing with persons with mental illness as specified by the commissioner of safety after consultation with the superintendent of the New Hampshire hospital.

11 New Subparagraph; New Hampshire Retirement System; Definitions; Permanent Policeman. Amend RSA 100-A:1, VII by inserting after subparagraph (f) the following new subparagraph:

(g) A security officer of the New Hampshire hospital security force who:

(1) Has the responsibilities granted by the commissioner of safety under RSA 21-P:4, XI;

(2) Has full general arrest powers;

(3) As a job requirement, is fully certified as a police officer by the police standards and training council; and

(4) As a job requirement, meets all physical, mental, educational, and other qualifications for continuing certification as a police officer that may be established by the police standards and training council.

12 New Hampshire Retirement System; Exception From Definition of Permanent Policeman; New Hampshire Hospital Security Officers Deleted. Amend RSA 100-A:1, VII-a(b) to read as follows:

(b) Any bingo or lucky 7 inspector, ~~[security officer appointed pursuant to RSA 21-P:7-b,]~~ any juvenile probation and parole officer, or any person employed in the bureau of trails of the department of resources and economic development; or

13 Transitional Provisions. Any persons employed as security officers of the New Hampshire hospital security force on the date this act takes effect and who have not completed the training required by the police standards and training council for certification as full-time police officers shall be scheduled for training at the police academy at the earliest practical time without undue interruption to the security operations at the hospital. No person shall be entitled to join group II of the retirement system without successfully completing all the training and other requirements to be fully certified. Any person employed as a security officer of the security force on the date this act takes effect and who has not successfully completed all the training and requirements for full-time police certification shall be entitled to continue said employment or be transferred to a civilian position at a comparable labor grade at the hospital or the department of safety. All officers hired on or after July 1, 2006, if not already full-time certified, shall successfully complete the police academy within the time specified in RSA 188-F and the rules of the police standards and training council.

14 Effective Date.

I. Sections 9-13 of this act shall take effect July 1, 2006.

II. The remainder of this act shall take effect 60 days after its passage.

**2006-2151s**

### AMENDED ANALYSIS

This bill:

I. Requires all forest rangers hired after January 1, 2005 to complete the preparatory training for full-time police officers established by the police standards and training council and provides that any forest ranger hired before January 1, 2005 shall be certified as a full-time police officer upon successful completion of the preparatory training course.



II. Authorizes the director of the division of forests and lands to regulate entry into, or movement within, the state of any wood product which may cause the introduction or spread of a dangerous insect or disease.

III. Defines and regulates wood concentration yards.

IV. Penalizes the failure to provide a written contract for the purchase or sale of forestry products as a deceptive forestry business practice.

V. Requires security officers of the New Hampshire hospital security force to be fully certified as police officers by the police standards and training council.

VI. Includes such security officers in group II of the New Hampshire retirement system.

SENATOR CLEGG: I'd like to offer amendment 2151. Can I speak to the amendment?

SENATOR GATSAS (In the Chair): Amendment 2151s has been proposed. You may speak on it as it's being passed out.

SENATOR CLEGG: This is a floor amendment by Senator Burling and myself. This is a bill that the Senate passed. It talks about fully certifying the officers at the New Hampshire Hospital, the security force. The House saw fit to kill it yesterday in Neal Kurk's wisdom. He thought it would add too many people to Group II. It came out with a good vote out of committee. It came with a good vote out of this body, and I would like to add it back and give the House a second opportunity to see the light.

SENATOR LARSEN: I rise to reinforce seeing the light and to reinforce the support for this amendment. The folks who work at New Hampshire Hospital, in terms of safety services there, very much want this amendment to pass. So I rise in support of the amendment.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1608-FN-A**, making appropriations to reimburse certain health and human services providers for the increased cost of utilities, heating, and mileage. Finance Committee. Inexpedient to legislate, Vote 4-3. Senator Morse for the committee.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 1608 inexpedient to legislate. This legislation appropriates \$2.4 million to certain providers to offset the increased cost of utilities, heating and mileage. Given the state's financial picture, which I've already spoken to, I ask you to please take this into consideration and support the Finance Committee by voting inexpedient to legislate.

SENATOR LARSEN: Thank you, Mr. President. 1608 in fact, is an important issue. It is the issue of Human...Health and Human Service providers who, like state departments and state agencies, are facing increased costs for their utilities and heating and mileage. We have area agencies, we have mental health agencies, we have many providers across the state, those who deliver meals on wheels. While we may be voting 1608 inexpedient to legislate, I hope you will consider the needs of these folks as you see an amendment come up in a subsequent bill.

**The question is on the committee report of inexpedient to legislate.**

**A division vote was requested.**

**Yeas: 11- Nays: 9**

**Committee report of inexpedient to legislate is adopted.**

**HB 1611-FN**, relative to reimbursement for personal care services. Finance Committee. Ought to pass, Vote 7-1. Senator Morse for the committee.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 1611 ought to pass. This legislation will allow the Department of Health and Human Services to reimburse a parent who provides personal care to a minor child with special healthcare needs residing at home. The fiscal impact is indeterminable; however, the Department has indicated that they will not utilize this option if there are no cost savings. The Finance Committee asks for your support for the motion of ought to pass.

**Adopted.**

**Ordered to third reading.**

**HB 1624-FN**, relative to boat noise. Finance Committee. Ought to pass, Vote 8-0. Senator Boyce for the committee.

SENATOR BOYCE: Thank you, Mr. President. I rise to move House Bill 1624 ought to pass. This bill modifies the boat noise limits. Current testing procedures don't work, as boaters are required to bring their boat back on another day in another place, and are also able to make slight modifications that might trick the marine patrol during the testing and then remove these modifications once they've been passed. This bill adopts an SAE test that will make testing system more efficient. The Finance Committee asks you to support this motion of ought to pass. Thank you.

**Adopted.**

**Ordered to third reading.**

**HB 1626-FN-A**, relative to appropriations for the expenses of certain departments of the state. Finance Committee. Ought to pass with amendment, Vote 7-0. Senator Morse for the committee.

**Senate Finance**

**April 27, 2006**

**2006-2085s**

**08/09**

### **Amendment to HB 1626-FN-A**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to appropriations for the expenses of certain departments of the state and establishing a quality early learning opportunity initiative and making an appropriation therefor.

Amend the bill by replacing all after the enacting clause with the following:

1 Repeal. 2005, 298:5, relative to an appropriation to the office of energy and planning for the fuel assistance program, is repealed.

2 Adjutant General; Supplemental Appropriation; Energy Expense Shortfalls. The sum of \$360,000 for the fiscal year ending June 30, 2006 is hereby appropriated to the adjutant general for anticipated energy expense shortfalls in state-owned buildings. This appropriation is in

addition to any other funds appropriated to the adjutant general. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

3 Department of Administrative Services; Supplemental Appropriation; Energy Expense Shortfalls. The sum of \$1,669,525 for the fiscal year ending June 30, 2006 is hereby appropriated to the department of administrative services for anticipated energy expense shortfalls in state-owned buildings. This appropriation is in addition to any other funds appropriated to the department of administrative services. The appropriation shall be a charge against the appropriate funds as follows:

General	Federal	Highway	Other
\$252,134	\$190,789	\$373,124	\$853,478

The governor is authorized to draw a warrant for said sums out of the appropriated fund.

4 Department of Safety; Supplemental Appropriation; Energy Expense Shortfalls. The sum of \$340,587 for the fiscal year ending June 30, 2006 is hereby appropriated to the department of safety for anticipated energy expense shortfalls in state-owned buildings. This appropriation shall be a charge against the highway fund and is in addition to any other funds appropriated to the department of safety.

5 Department of Resources and Economic Development; Supplemental Appropriation; Energy Expense Shortfalls. The sum of \$16,000 for the fiscal year ending June 30, 2006 is hereby appropriated to the department of resources and economic development for anticipated energy expense shortfalls in state-owned buildings. This appropriation is in addition to any other funds appropriated to the department of resources and economic development. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

6 Department of Environmental Services; Supplemental Appropriation; Energy Expense Shortfalls. The sum of \$33,000 for the fiscal year ending June 30, 2006 is hereby appropriated to the department of environmental services for anticipated energy expense shortfalls in state-owned buildings. This appropriation is in addition to any other funds appropriated to the department of environmental services. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

7 Department of Corrections; Supplemental Appropriation; Energy Expense Shortfalls. The sum of \$950,000 for the fiscal year ending June 30, 2006 is hereby appropriated to the department of corrections for anticipated energy expense shortfalls in state-owned buildings. This appropriation is in addition to any other funds appropriated to the department of corrections. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

8 Regional Community Technical College System; Supplemental Appropriation; Energy Expense Shortfalls. The sum of \$700,000 for the fiscal year ending June 30, 2006 is hereby appropriated to the regional community-technical college system for anticipated energy expense shortfalls in state-owned buildings. This appropriation is in addition to any other funds appropriated to the regional community-technical college system. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

9 Liquor Commission; Supplemental Appropriation; Energy Expense Shortfalls. The sum of \$105,000 for the fiscal year ending June 30, 2006 is hereby appropriated to the liquor commission for anticipated energy expense shortfalls in state-owned buildings. This appropriation is in

addition to any other funds appropriated to the liquor commission. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

10 Department of Administrative Services; Supplemental Appropriation; New Positions to Administer; State Retiree Health Benefits. The sum of \$163,618 for the fiscal year ending June 30, 2007 is hereby appropriated to the department of administrative services, for the hiring of 3 program specialist II positions with associated costs to administer state retiree benefits. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

11 Appropriation; Adjutant General; Exhibits. There is hereby appropriated the sum of \$15,000 to the adjutant general for the fiscal year ending June 30, 2006 for the purpose of creating permanent photographic exhibits, documenting the New Hampshire national guard's support and deployment during Operation Iraqi Freedom and Operation Enduring Freedom. The exhibits shall be displayed in each of the New Hampshire national guard armories. This appropriation shall be nonlapsing. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

12 General Fund Appropriation Reductions; Administrative Services. Amend 2005, 176:10 to read as follows:

176:10 General Fund Appropriation Reductions. The department of administrative services shall reduce state general fund appropriations by \$500,000 for the fiscal year ending June 30, 2006~~], and by \$500,000 for the fiscal year ending June 30, 2007]~~. The department shall provide a report of reductions made under this section to the fiscal committee of the general court, the house and senate finance committees, and the governor and council.

13 Supplemental Appropriation; Office of Cost Containment.

I. In addition to any other sums appropriated to PAU 01-04-01-04, the sums of \$17,687 for class 50 and \$1,353 for class 60 are hereby appropriated for the fiscal year ending June 30, 2006 to the department of administrative services, office of cost containment. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

II. In addition to any other sums appropriated to PAU 01-04-01-04, the sums of \$27,535 for class 50 and \$2,106 for class 60 are hereby appropriated for the fiscal year ending June 30, 2007 to the department of administrative services, office of cost containment. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

14 Supplemental Appropriation; Sheriff Custody Reimbursement. In addition to any other sums appropriated to PAU 01-04-07, class 93, the sums of \$64,745 for the fiscal year ending June 30, 2005, \$55,000 for the fiscal year ending June 30, 2006, and \$73,000 for the fiscal year ending June 30, 2007 are hereby appropriated to the department of administrative services for sheriff custody reimbursement. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

15 Supplemental Appropriation; Medicare Retiree Prescription Drug Subsidy Program. The sums of \$100,000 for the fiscal year ending June 30, 2006 and \$200,000 for the fiscal year ending June 30, 2007 are hereby appropriated to the department of administrative services for administrative costs related to the Medicare Retiree Prescription Drug Subsidy Program. These appropriations are in addition to any other

funds appropriated to the department of administrative services. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

**16 Supplemental Appropriation; Enterprise Resource Planning System.**

I. The sum of \$1,500,000 for the fiscal year ending June 30, 2006 is hereby appropriated to the department of administrative services for quality assurance evaluation, monitoring, and reporting related to the implementation of the Enterprise Resource Planning System.

II. To provide funds for the appropriation made in paragraph I of this section, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$1,500,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made from the general fund of the state.

**17 Statement of Purpose.** The general court finds that high quality early learning experiences are important to the well-being of children and the state. Children who attend child care programs that provide high quality learning environments are more likely to succeed in school and to become productive, independent adults. The general court recognizes that many low-income working parents are unable to afford the cost of quality, licensed child care. Sections 17-20 of this act are intended to provide enhanced opportunities for these families to access high quality early care and education programs.

**18 New Paragraph; Commissioner of Health and Human Services; Quality Early Learning Opportunity Initiative.** Amend RSA 126-A:5 by inserting after paragraph XIII the following new paragraph:

XIV. The commissioner shall establish a quality early learning opportunity initiative which shall be available on a first-come, first-served basis to families whose income is between 190 percent and 250 percent of the federal poverty guidelines, and whose children are enrolled in a child care program licensed under RSA 170-E, and who otherwise meet all other eligibility requirements for child care assistance. The amount of support provided to eligible families shall be calculated annually by the department and shall reflect the estimated average difference between the cost of licensed child care and unlicensed child care.

**19 Appropriation.** The sum of \$500,000 for the fiscal year ending June 30, 2007 is hereby appropriated to the department of health and human services for the purposes of section 18 of this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

**20 Repeal.** RSA 126-A:5, XIV, relative to the high quality early learning opportunity initiative, is repealed.

**21 Effective Date.**

I. Section 20 of this act shall take effect July 1, 2007.

II. Sections 16-19 of this act shall take effect July 1, 2006.

III. The remainder of this act shall take effect upon its passage.

**2006-2085s**

**AMENDED ANALYSIS**

This bill modifies certain prior appropriations and makes additional appropriations for the expenses of certain departments of the state.

This bill also establishes a one-year quality early learning opportunity initiative in the department of health and human services and makes an appropriation from the general fund for such initiative.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 1626 ought to pass with amendment. There are several amendments contained in this legislation; primarily, it contains requests from the Department of Administrative Services to address several issues that have surfaced since the implementation of the budget. The legislature came together in an emergency session to appropriate \$10 million for the fuel assistance program. This has been repealed since these funds have not been drawn upon during this past winter. Funds are made available for a new position to address the increase in caseloads for repayment orders of indigent defense. Over \$2 million has been recovered for repayment orders in the past. Administrative Services did not have the funds to reimburse the counties for transporting of inmates by the sheriffs, as the sharp caseload increase was not predicted. Funds are also made available for administrative costs related to the Medicare Retiree Prescription Drug Subsidy Program, and \$1.5 million in general funds are to be bonded for the implementation costs of the Enterprise Resource Planning System. Many states have failed at this, due to a lack of dedicated funding source. Given the high price tag, it is the state's best interest to ensure the implementation process is comprehensive. \$15,000 is made available to the Attorney General or the Adjutant General, for exhibits documenting the New Hampshire National Guard's deployment in Operation Iraqi Freedom and Operation Enduring Freedom. The Commissioner of Administrative Services testified that many departments are struggling to meet their heating and utility costs that were not predicted at the time of the budget. Late fees are being incurred while at least one department has received shut off notices. Approximately \$2.7 million is appropriated to eight different departments expressly for this purpose. This bill exempts Administrative Services from a \$5 million...a \$500,000 reduction in their budget in the second year, and finally, restores the Senate position of Senate Bill 306, establishing a early quality learning opportunity initiative and making an appropriation therefore. The Finance Committee asks for your support of the motion of ought to pass with all of these amendments. Thank you.

Senator Johnson in the Chair.

SENATOR LARSEN: Is this the point where it's open to second, to additional amendments? Alright. Sorry. I was reading.

**Amendment adopted.**

Senator Larsen offered a floor amendment.

Sen. Burling, Dist. 5

Sen. Gottesman, Dist. 12

Sen. Foster, Dist. 13

Sen. Larsen, Dist. 15

Sen. Estabrook, Dist. 21

Sen. Hassan, Dist. 23

Sen. M. Fuller Clark, Dist. 24

**May 2, 2006**

**2006-2144s**

**09/10**

**Floor Amendment to HB 1626-FN-A**

Amend the bill by replacing all after section 20 with the following:

21 Appropriation. The sum of \$1,748,504 is hereby appropriated to the department of health and human services for the biennium ending June 30, 2007, for the purpose of providing a one-time increase in

rates paid to certain providers in fiscal year 2007 to offset the increased cost of utilities, heating, and mileage. The commissioner of the department of health and human services by August 1 shall set the amount of such rate increase for each provider at the maximum rate consistent with the appropriations allotted below for such provider. The commissioner in September shall report to the fiscal committee of the general court on the rates established by the department. The sums appropriated in this section represent the state general fund share of such costs, and the department shall obtain matching funds from federal and other non-state sources, where appropriate, to ensure that the full cost of the one-time increase is sufficiently funded. The appropriation contained in this section shall be distributed as follows:

#### **Office of Medicaid and Business Policy**

<u>PAU</u>	<u>Description</u>	<u>Appropriation</u>
05-01-02-01-04	Medical Transportation	\$6,050

#### **Division for Children, Youth, and Families**

<u>PAU</u>	<u>Description</u>	<u>Appropriation</u>
05-01-06-07-01	Residential Providers	\$151,118
05-01-06-07-01	Foster Care Adoption, and Foster Homes	\$92,462
05-01-06-08-02	Child Care	\$257,134

#### **Bureau of Elderly and Adult Services**

<u>PAU</u>	<u>Description</u>	<u>Appropriation</u>
05-01-08-03-01	Home Delivered Meals and Transportation	\$21,062
05-01-08-03-05	Congregate Housing Contracts	\$6,980
05-01-08-03-06	Adult Residential Day Care	\$2,578
05-01-08-04-01	Home Nursing Services	\$73,758

#### **Bureau of Behavioral Health**

<u>PAU</u>	<u>Description</u>	<u>Appropriation</u>
05-01-09-04-01	Community Mental Health Centers	\$341,850
05-01-09-04-08	Emergency Shelters	\$30,772

#### **Bureau of Developmental Services**

<u>PAU</u>	<u>Description</u>	<u>Appropriation</u>
05-01-10-01	Developmental Services	\$764,740

This appropriation is in addition to any other funds appropriated to the department of health and human services. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

22 Rate Increase; Federal Funds. The department of health and human services shall provide a one-time one percent increase in rates paid to certain health and human services providers in fiscal year 2006 who do not receive the increase contained in section 21 of this act, but only to the extent the increase can be funded entirely from federal funds.

23 Additional Appropriation. The sum of \$150,000 is hereby appropriated to the department of health and human services for the biennium ending June 30, 2007, for the purpose of providing additional funds to certain health and human services providers for the increased cost of utilities, heating, and mileage. The amounts appropriated in this section shall be distributed by the commissioner at his or her discretion. The commissioner may distribute these funds to providers who also receive the rate increase provided for in section 21 of this act. The commissioner shall seek to distribute funds in a manner which shall provide the highest level of relief to providers most affected by the increased cost of utilities, heating, and mileage, and shall report to the fiscal committee of the

general court within 60 days of the effective date of this act on the distribution of said funds. This appropriation is in addition to any other funds appropriated to the department of health and human services. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

**24 Effective Date.**

I. Section 20 of this act shall take effect July 1, 2007.

II. Sections 16-19 of this act shall take effect July 1, 2006.

III. The remainder of this act shall take effect upon its passage.

**2006-2144s**

**AMENDED ANALYSIS**

This bill modifies certain prior appropriations and makes additional appropriations for the expenses of certain departments of the state.

This bill establishes a one-year quality early learning opportunity initiative in the department of health and human services and makes an appropriation from the general fund for such initiative.

The bill also makes appropriations to the department of health and human services for the purposes of reimbursing certain health and human services providers for the increased cost of utilities, heating, and mileage.

SENATOR LARSEN: Thank you. I rise to offer amendment 2144, a floor amendment. As we addressed and were responsible at addressing the energy needs of our state agencies, many of whom have threatened shut off notices, including the Department of Corrections, we were responsible in taking care of their increased energy costs, but we have the continued issue of how we pay for or how those who are in the provider industries of our state, how did they pay for their increased costs? These are people who are contracted with us to run residential homes, to care in foster care for folks, to offer child care, including to those in need in our state. This is the issue of how does meals on wheels get funded? How do they make up for the cost of \$3 a gallon of gas? When they contracted, they thought gas prices were substantially less. Congregate housing contracts. Adult residential day cares. All of them have the day cares of adult residential over the winter, had to heat those buildings. You can't cut back on heat for adult day care. We have a list, and we have honed down this list to the original request for House Bill 1626. The original price tag was on House Bill 1608, and it was somewhere above \$2 million in requests. In the Finance Committee, we heard that in fact, there weren't documented needs. So what we did was go back to the Department of Health and Human Services' language and see which were the fuel costs that could be document. That increased fuel costs with documented and verifiable cost increases, is what you have in this floor amendment, and so it makes sense for us to take care of state agencies, and it makes sense for us to take care of meals on wheels, on adult day care, of increased costs for congregate housing, for residential care providers, for children at-risk, who have heat, lights, increased costs just like all of us. Our community mental health centers, our emergency shelters, and our developmental services. So this amendment, which totals \$1.7 million, takes care of the costs of these agencies that we have a documented need for. And I offer this amendment and encourage you to do as you've done for our own state agencies and fund those who we require through contract to do state services.

Senator Gatsas in the Chair.



SENATOR LETOURNEAU: Question of Senator Larsen. Senator Larsen, I'm looking over this amendment, and it looks strangely enough like House Bill 1608, which we just voted inexpedient to legislate. Is this the same language?

SENATOR LARSEN: No. As I said, we went through carefully with the documentation of what the increased energy costs were to these agencies. We heard from Hannah House, for example, that in Lebanon, that there's a \$1,700 attributable just to that one house, for energy cost this year. We know that there are...these are documentable costs to energy increases. And what we did was cut down 1608 so that it was a number that was more affordable within our budget. So what...and when 1608 was on the Senate floor just a minute ago, I pointed out that while we were saying this was inexpedient to legislate, we were going to bring an amendment that would address the needs that we documented in another bill. This is the other bill.

SENATOR LETOURNEAU: Thank you. Can I ask a follow up question to the Finance Chairman?

SENATOR GATSAS (In the Chair): He's going to speak, so maybe he might answer your question.

SENATOR LETOURNEAU: Well, okay. I'll wait until he speaks. Thank you.

SENATOR MORSE: Thank you, Mr. President. I'd ask you to vote no on this amendment. This amendment basically is 1608. What was cut out should have been cut out, because the funding for what was cut out of here should have never happened in the first place. In the second place, they haven't changed the numbers on what they're asking to be funded. This is a straight one percent of the budgets of these organizations. The same numbers that I have in 1608. And, as for what we funded in our state agencies, we the Senate, not the House, we the Senate, funded this year, 2006, after the fact, which I find hard to believe, because I have Health and Human Services, they say it was requested that energy costs be reduced by 10 percent based on executive orders signed by Governor Lynch to all state agencies. I think that should have stood up in all state agencies; it didn't. We funded one year after the fact, \$2.4 million. We also stated in Finance, somebody better get on the ball, because there's no money left next year if this happens again, based on what I got from Ways and Means. There's nothing. We're spending it all. So, if you're changing priorities, and you're going to support this, which we just ITL the majority of it, because it was a straight 1 percent increase on their total spending, not on their energy needs. No one ever went to any of these groups and said, reduce your energy needs, cut back. We should have done that to our own departments. Sounds to me like we did, but we didn't live up to it. And that's why I ask you not to support this.

**The question is on the adoption of the floor amendment.**

**A roll call was requested by Senator Burling.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Burling, Green, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**The following Senators voted No: Gallus, Johnson, Kenney, Boyce, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**Yeas: 8 – Nays: 15**

**Floor amendment failed.**

**The question is on the adoption of the bill as amended.**

**A roll call was requested by Senator Letourneau.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: None.**

**Yeas: 23 – Nays: 0**

**Adopted.**

**Ordered to third reading.**

**HB 1648-FN**, relative to legal residency and financial liability for children in certain residential placements. Finance Committee. Ought to pass with amendment, Vote 8-0. Senator Larsen for the committee.

**Senate Finance**

**April 24, 2006**

**2006-1997s**

**04/10**

#### **Amendment to HB 1648-FN**

**Amend the title of the bill by replacing it with the following:**

**AN ACT** relative to the residency status and financial liability for a child who is a ward of the department of health and human services or who is the subject of a court-ordered placement.

**Amend the bill by deleting section 1 and renumbering the original sections 2-3 to read as 1-2, respectively.**

**2006-1997s**

#### **AMENDED ANALYSIS**

This bill revises the procedure for resolving disputes between school districts, parents, and the department of health and human services concerning the residency status and financial liability for a child who is a ward of the department of health and human services or who is the subject of a court-ordered placement.

**SENATOR LARSEN:** I move House Bill 1648 ought to pass with amendment. In the event a parent were to move to another state, Massachusetts for example, while the child is residing in a court-ordered placement, the Education and Health and Human Services Departments would be required to request that the state which the parents moved to assume educational costs for the child until custody is returned. The committee struck Section 1 because of fiscal concerns and the precedent. Although I have to insert that since then, I have found out more information, which I will bring to you in my next amendment. But, while Massachusetts, for example, may be fiscally prepared to assume the educational costs of the child, New Hampshire may not be financially capable of a reciprocal agreement considering the larger population and the associated costs. Additionally, when there is a dispute regarding determination of a liable school district, the Department of Ed assumes that the role in order to provide a free appropriate public education at no cost to the student's parents or guardians. The Finance Committee asks your support of the motion of ought to pass with amendment.

**Amendment adopted.**

Senator Larsen offered a floor amendment.

Sen. Larsen, Dist. 15

**May 2, 2006**

**2006-2147s**

**04/10**

**Floor Amendment to HB 1648-FN**

Amend the title of the bill by replacing it with the following:

AN ACT relative to legal residency and financial liability for children in certain residential placements.

Amend the bill by replacing all after the enacting clause with the following:

1 New Subparagraph; School Attendance; Legal Residence Required. Amend RSA 193:12, II by inserting after subparagraph (b) the following new subparagraph:

(c)(1) If a parent with legal and physical custody of a child moves from New Hampshire to another state while the child is in a court-ordered residential placement in this state or another state pursuant to RSA 169-B, RSA 169-C, RSA 169-D, or RSA 463, the departments of education and health and human services shall make a written request of the receiving state to assume the educational costs of the child's placement in this state or another state until legal custody of the child is returned to a parent or legal guardian. In this subparagraph, "receiving state" shall mean the state to which the child's parents move.

(2) If the receiving state refuses to accept financial liability, the departments of education and health and human services shall enter into an agreement to provide the child with general and special education and residential services until legal custody of the child is returned to a parent or legal guardian.

2 Pupils; Legal Residence Required. Amend RSA 193:12, V-b to read as follows:

V-b. Whenever a dispute arises [~~between 2 or more school districts~~] ***among one or more school districts, the department of health and human services, or one or more of the previously mentioned parties***, as to the residency of a child who is in the legal custody or guardianship of the department of health and human services, or who has been placed pursuant to a court order in a proceeding under RSA 169-B, RSA 169-C, RSA 169-D, or RSA 463, the department of health and human services may request in writing that the [~~respective~~] superintendents ***involved*** resolve the dispute. If the residency dispute remains unresolved 10 days after such request, the department of health and human services may request that the commissioner of the department of education determine the residence of the child. The child may attend school in the district in which the child has been placed by the court or the department of health and human services pending the resolution of the residency dispute. Liability as to the cost of school attendance provided under this paragraph shall be determined by the commissioner of education.

3 Effective Date. This act shall take effect 60 days after its passage.

**2006-2147s**

**AMENDED ANALYSIS**

This bill requires the departments of education and health and human services to provide educational or residential services, or both, to certain children in court-ordered residential placements in this or another state.

SENATOR LARSEN: Thank you, Mr. President. When we had this bill in Finance, there was concern that other states would begin to reciprocate and charge back New Hampshire for the issue of children whose parents have moved out-of-state, and who in fact, have no parent in residence in the state. As a result, there's no sending school district for those kids. That might be a child in YDC for example, or children in need of services known as CHINS. So, House Bill 1648, as sent to the Senate by the House and passed through our Judiciary Committee, was good policy. It was intended to clarify educational, financial responsibility for a child who's in court ordered residential placement, whether it be foster care or some other residential educational facility, regarding delinquency, child protection, regarding children in need of services or regarding...

SENATOR GATSAS (In the Chair): Are you offering a floor amendment?

SENATOR LARSEN: Excuse me?

SENATOR GATSAS (In the Chair): Are you offering a floor amendment?

SENATOR LARSEN: I am.

SENATOR GATSAS (In the Chair): Okay, I was just checking. It's been a long day, but I was just checking. Floor amendment 2147. You'd like to speak to that while it's being handed out?

SENATOR LARSEN: I'm speaking to 2147, which I'd like to speak to while it's being handed out?

SENATOR GATSAS (In the Chair): Thank you, Senator.

SENATOR LARSEN: So, as an example of this issue, a child currently in court-ordered placement could be at YDC. According to the testimony of Representative Foote, the prime sponsor of this bill, there are children within our state who have no legal public school district. Currently, under RSA 193:12, our law requires that a parent or legal guardian be the resident of a New Hampshire for a child to be considered a legal resident of the state. Currently, there's no exception for those kids who are in court-ordered placements and this creates a confusion over which school district is responsible for the child financially. In the House's amended form, one of these children's legal guardians moved to another state during the duration of the child's court order. New Hampshire would have been able to ask the state where the guardian moved to take over that child's educational costs and costs to care for the child. Some states do consider these children to be residents of their state if their parents are residing there and some states would adopt the costs. This is a long way of saying, if you remove Section I, there's no way for the state to know how to pay for the child who resides in New Hampshire. Under Section I, there is a billing procedure and it makes sense for us to keep Section I in. When Finance looked at this, they asked me to research this and they said., the members of Finance said, "If you find something different, if you find there's a problem with our removing Section I, we'll restore it on the Senate floor." So I've done the research and it appears that we are not liable for states billing back New Hampshire, because New Hampshire currently already pays for children when their guardians move to our state. So that reciprocal, that fear of reciprocity does not exist. The bill passed Judiciary in the correct form, and I ask you to restore Section I by adopting the floor amendment 2147s, which in essence restores Section I, and keeps Section II, which we've already agreed to.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1656-FN-A**, establishing an electronic toll collection transponder inventory fund. Finance Committee. Ought to pass with amendment, Vote 8-0. Senator Morse for the committee.

**Senate Finance**

**April 25, 2006**

**2006-2031s**

**06/09**

**Amendment to HB 1656-FN-A**

Amend the title of the bill by replacing it with the following:

**AN ACT** establishing a turnpike electronic toll collection transponder inventory revolving account.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Turnpike Electronic Toll Collection Transponder Inventory Revolving Account. Amend RSA 228 by inserting after section 24-c the following new section:

228:24-d Turnpike Electronic Toll Collection Transponder Inventory Revolving Account. There is hereby established a turnpike electronic toll collection transponder inventory revolving account not to exceed \$1,000,000. The commissioner of transportation may purchase, through the Interagency Group, such electronic toll collection transponders as may be necessary for the operation of the department, which shall be a charge against the account. Any costs to the department above and beyond the cost of the transponders shall be charged to the purchaser. All sales of electronic toll collection transponders from inventory shall be credited to the account and are hereby appropriated to the department of transportation and made available for expenditures from the account.

2 New Subparagraph; Turnpike Electronic Toll Collection Transponder Inventory Revolving Account. Amend RSA 6:12, I(b) by inserting after subparagraph (242) the following new subparagraph:

(243) Moneys received pursuant to RSA 228:24-d which shall be credited to the turnpike electronic toll collection transponder inventory revolving account in RSA 228:24-d.

3 New Section; Use of Tokens. Tokens sold by the department of transportation prior to September 1, 2005, may be used in payment of tolls for 6 months on or after July 1, 2006. The cash value of each token shall be \$.125. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to the redemption of such tokens.

4 Effective Date. This act shall take effect July 1, 2006.

**2006-2031s**

**AMENDED ANALYSIS**

This bill establishes the turnpike electronic toll collection transponder inventory revolving account in the department of transportation for the purchase and sale of transponders for use in the regional electronic toll collection system.

This bill permits the use of tokens as payment of tolls for 6 months.

This bill is a request of the department of transportation.

SENATOR MORSE: There's a bunch of Greek food out there, Mr. President, and I was taking advantage of it seeing no one left any pizza for the Finance Chair. I move House Bill 1656 ought to pass with amendment. Currently, the Department of Transportation goes before the Governor and Council for requests of electronic toll collection transponders. This bill establishes an Electronic Transponder Inventory Fund, so they will no longer need to go to receive approval from the Governor and Council, similar to the current practice for fuel. In addition, it includes the cost of shipping for transponders, between \$3 and \$4, as costs to be paid for by the consumer not the Department. This will further help the Department save funds to keep the turnpike system in good financial health. And, for those drivers that still have tokens, they will be able to use them as cash for six months at the New Hampshire toll booths. The token's value will be worth 12.5 cents, and a trip through the Hooksett tolls that once required three tokens, will now be six. Please support the Financial Committee recommendation of ought to pass with amendment.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**Senator Barnes is in opposition to HB 1656-FN-A.**

**HB 1672-FN**, relative to a registry for substantiated cases of abuse, neglect, or exploitation of incapacitated adults and establishing a task force relative to central registries. Finance Committee. Ought to pass with amendment, Vote 7-1. Senator Morse for the committee.

Sen. Morse, Dist. 22

**April 24, 2006**

**2006-1975s**

**05/03**

#### **Amendment to HB 1672-FN**

Amend the bill by replacing section 9 with the following:

9 Effective Date.

I. Sections 3-7 and 9 shall take effect upon its passage.

II. The remainder of this act shall take effect July 1, 2007.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 1672 ought to pass with amendment. House Bill 1672 borrows language from the children's registry system to establish an adult registry and creates a task force to look at how the adult and the child registries could interface or possibly unite. This bill also includes an amendment that would require national background checks for childcare providers. According to the fiscal note, the Department of Health and Human Services anticipates that it will require five additional staff to implement the bill. The committee amendment changes the effective date from July 1, 2007...it changes it to July 1, 2007, to allow the five positions to be included in the budget process. The Finance Committee asks for your support of the motion of ought to pass with amendment.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

Senator Barnes is in favor of HB 1672-FN.

**HB 1683-FN**, establishing a homestead food license for residential, non-commercial kitchens. Finance Committee. Ought to pass, Vote 7-1. Senator Larsen for the committee.

SENATOR LARSEN: Thank you, Mr. President. I move House Bill 1683 ought to pass. The bill establishes a homestead food license for residential, non-commercial kitchens and requires out-of-state residential, non-commercial kitchens to register with the Department of Health and Human Services. The second part of the bill creates a registry of out-of-state home food manufacturers who sell their products in New Hampshire. The bill ensures New Hampshire citizens are receiving high quality products while not giving an advantage to out-of-state producers. While this may result in a small increase in revenue, the Department of Health and Human Services further assumes no additional expenditures will result from this bill. The Finance Committee asks for your support of this motion of ought to pass.

**Adopted.**

**Ordered to third reading.**

SENATOR BARNES: Mr. President, we just had a piece of legislation, 1672, and I voted no on it and I wanted to vote no on 1656. Apparently, when I was getting my water, you already voted on that one. I did not want to vote no on 1672. I wanted my no vote on 1656.

SENATOR GATSAS (In the Chair): Senator, if you'll go down and have your vote recorded, I'm sure she'll put it in.

SENATOR BARNES: Thank you.

SENATOR GATSAS (In the Chair): Thank you.

**HB 1696-FN**, relative to the cremation of human remains. Finance Committee. Ought to pass, Vote 6-2. Senator Larsen for the committee.

SENATOR LARSEN: Thank you, Mr. President. I move House Bill 1696 ought to pass with amendment. This legislation will give the Board of Funeral Directors regulating authority over crematories in New Hampshire. Licensing and inspections will now be required, and a compliance and penalty process will be established. The industry has been supportive of this legislation. Most crematories in the state already do what is outlined in the legislation so it will not negatively impact them. Although the Bayview Crematory was a, and this is not my words, a "rogue operation", and does not reflect the actions of other crematories in New Hampshire, we want to be sure that this situation never arises again. While the fiscal note is not clear, the departments affected seem to believe that there'll be a small fiscal impact, and no new funds are necessarily to be appropriated. The Finance Committee asks for your support on the motion of ought to pass and thank you.

**Adopted.**

**Ordered to third reading.**

**HB 1697-FN**, relative to certain state salaries. Finance Committee. Ought to pass with amendment, Vote 8-0. Senator Clegg for the committee.

**Senate Finance**  
**April 26 2006**  
**2006-2052s**  
**04/10**

**Amendment to HB 1697-FN**

Amend the title of the bill by replacing it with the following:

AN ACT relative to certain state salaries; establishing the position of director of homeland security and emergency management in the department of safety; authorizing the commissioner of safety to reorganize certain divisions, responsibilities, and activities of the department; relative to appeals of reclassification of positions; relative to a study of the unclassified salary schedule; and relative to the registration of apprentices by the board of barbering, cosmetology, and esthetics.

Amend the bill by replacing all after section 11 with the following:

12 New Section; Department of Safety; Director of Homeland Security and Emergency Management. Amend RSA 21-P by inserting after section 5 the following new section:

21-P:5-a Director of Homeland Security and Emergency Management.

I. Notwithstanding the provisions of RSA 21-G and RSA 21-P:3, the commissioner, after consultation with the governor, shall nominate for appointment by the governor and council, a director of homeland security and emergency management, who shall serve at the pleasure of the governor. The director of homeland security and emergency management shall be qualified by education and experience and shall receive the salary provided in RSA 94:1-a.

II. The director of homeland security and emergency management, under the supervision of the commissioner and the governor, shall devote full time and attention to overseeing the state level planning, preparation, exercise, response to and mitigation of terrorist threats and incidents and natural and human-caused disasters. He or she shall serve as the state's primary contact with the federal department of homeland security, and shall have authority to oversee and coordinate planning, response, and recovery efforts of all state agencies to terrorist events and natural and human-caused disasters and wide scale threats to the public health and safety. All state agencies shall and are authorized to cooperate with the director in carrying out his or her duties as enumerated in this section.

III. The director of homeland security and emergency management shall be eligible to be a group II member if he or she was a group II retirement beneficiary or member prior to his or her appointment.

IV. The director of homeland security and emergency management shall keep the president of the senate and speaker of the house of representatives or their designees promptly informed of any impending or actual emergencies that require coordinated action with the legislative branch.

13 Department of Safety; Salaries. Amend RSA 94:1-a, I(b) by:

I. Inserting:

II	Department of safety	director of homeland security and emergency management
II	Department of safety	director of emergency communications, service, and management
FF	Department of safety	assistant director, bureau of emergency management



## II. Deleting:

EE Department of safety      director of emergency medical services

14 Department of Safety; Reorganization Authorized. The commissioner of safety is hereby authorized, with approval of the governor and council, to reorganize the homeland security and emergency management activities of the department of safety by transferring, notwithstanding other laws and rules to the contrary, the responsibility, duties, and authority for supervision of emergency management from the division of emergency communications, services, and management to the director of homeland security and emergency management, and transferring the bureau of emergency management from the division of emergency communications, services, and management to the office of the commissioner under the supervision of the director of homeland security and emergency management, together with the associated personnel, appropriations, funding sources, contracts, rules, and suitable office space and equipment, and providing for necessary support of emergency management efforts during a disaster or terrorist incident from all components of the department, regardless of funding source. The commissioner shall report to the governor, the president of the senate, and the speaker of the house of representatives by December 31, 2006, recommended legislation for any statutory changes deemed necessary to further align other provisions of the law with this act.

15 Appropriation. The sum of \$133,746 is hereby appropriated to the department of safety, for the fiscal year ending June 30, 2007, to support the establishment of the position of director of homeland security and emergency management. The governor is authorized to draw a warrant for such amount out of any money in the treasury not otherwise appropriated. Such amount shall be in addition to any other funds appropriated to the department and shall be expended as follows:

Salary, director of homeland security and emergency management	\$94,584
Current expense	1,500
Equipment	30,000
Benefits	4,162
In-state travel	2,500
Out-of-state travel	1,000

16 New Paragraph; Reclassification of Positions or Increases; Appeal to Commissioner of Administrative Services. Amend RSA 21-I:56 by inserting after paragraph IV the following new paragraph:

V. Notwithstanding any other provision of law, any commissioner of a state agency may appeal a reclassification decision to the commissioner of administrative services who shall have final authority over such decision.

17 Study of Unclassified Salary Schedule. The commissioner of administrative services shall engage a consultant of his choice, after approval of the fiscal committee, to study the unclassified salary schedule in relation to recent changes in the classified pay schedule. The commissioner shall present the results and findings of such study to the chairperson of the senate finance committee and the house finance committee prior to December 1, 2006. The cost of such study shall be a charge against the salary adjustment fund established in RSA 99:4.

18 Apprentice Registration. Amend RSA 313-A:24 to read as follows:  
313-A:24 Apprentice Registration.

I. No person shall enter an apprenticeship or enroll in a school under this chapter unless such person has registered with the board as an apprentice. ***The board shall have sole authority to regulate apprentices and apprenticeship under this chapter.***

II. A person applying for registration under this section shall be granted such registration upon:

(a) Submitting proof sufficient to the board to show that such person is at least 16 years of age;

(b) Submitting 3 passport-size photographs; ~~[and]~~

(c) Paying a fee established by the board~~[-]~~; ***and***

***(d) Being deemed by the board to be of good professional character.***

III. No salon or barbershop shall at any one time have more than one apprentice per licensed professional.

IV. Upon completing the number of hours specified in the board's apprentice rules, an apprentice shall be eligible to apply to the board for licensure.

19 Effective Date.

I. Sections 12-15 of this act shall take effect July 1, 2006.

II. The remainder of this act shall take effect upon its passage.

**2006-2052s**

#### AMENDED ANALYSIS

This bill:

I. Changes the effective date for the 2 percent salary increase for certain state employees from July 7, 2006 to June 16, 2006.

II. Establishes the position of director of homeland security and emergency management and adjusts the salaries of the director of emergency communications, service, and management and the assistant director of the bureau of emergency management.

III. Permits the commissioner of the department of safety to transfer the homeland security and emergency management activities of the department of safety from the division of emergency communications, services, and management to the office of the commissioner and to reorganize the divisions, responsibilities, and activities of the department.

IV. Permits the commissioner of administrative services to make the final decision regarding reclassification of certain state employees and directs the commissioner to retain a consultant to study the unclassified salary schedule.

V. Provides that the board of barbering, cosmetology, and esthetics has sole authority to regulate apprentices registered with the board and allows the board to consider the professional character of an applicant for apprenticeship.

SENATOR CLEGG: Thank you, Mr. President. I move House Bill 1697 ought to pass with amendment. Inadvertently, a period of two weeks was left out of the employment contract and resulted in an inconsistency between the budget and the contract. House Bill 1697 will make the contract signed by the state and the SEA whole. The amendment to the bill creates the position of the Director of Homeland Security and Emergency Management. This position is necessary because more than one person is needed to take on the many duties involved. It also allows any commissioner to appeal a decision on behalf of their employee to the Commissioner of Administrative Services. It also provides for a consultant to study the unclassified salary schedule as there are several instances

where the supervisor makes less money than those he or she is supervising. It also gives the Board of Barbering, Cosmetology and Esthetics, sole authority to regulate registered apprentices in their practice. The Finance Committee asks for your support. Thank you.

### **TAPE CHANGE**

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**A roll call was requested by Senator Fuller Clark.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: Boyce.**

**Yeas: 21 - Nays: 1**

**Adopted.**

### **MOTION OF RECONSIDERATION**

Senator Gottesman, having voted with the prevailing side, moved reconsideration of HB 1697-FN, whereby it was adopted as amended.

**Adopted.**

### **PARLIAMENTARY INQUIRY**

SENATOR LETOURNEAU: Just a parliamentary inquiry, Mr. President. You hadn't declared the bill passed yet, and you could have called Senator Estabrook at the end, instead of in her regular formation, instead of going through reconsideration motion. At least that's the way I understood it. You hadn't declared that vote closed yet.

SENATOR GATSAS (In the Chair): If you're not in your seat, Senator, you're vacant. We already declared the vote.

**HB 1697-FN**, relative to certain state salaries.

**The question is on the adoption of the bill as amended.**

**A roll call was requested by Senator Fuller Clark.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: Boyce.**

**Yeas: 22 - Nays: 1**

**Adopted.**

**Ordered to third reading.**

**HB 1710-FN-A**, relative to appropriations to the department of health and human services for home care providers and community mental centers and making an appropriation to increase the hourly rate of pay for direct care providers for persons with developmental and acquired dis-

abilities and extending the provision of supplemental pharmacy assistance. Finance Committee. Ought to pass with amendment, Vote 7-0. Senator Morse for the committee.

**Senate Finance**  
**April 26 2006**  
**2006-2048s**  
**10/03**

### **Amendment to HB 1710-FN-A**

Amend the title of the bill by replacing it with the following:

AN ACT making an appropriation to the department of health and human services for home care providers.

Amend the bill by deleting sections 2-5 and renumbering the original section 6 to read as 2.

**2006-2048s**

### **AMENDED ANALYSIS**

This bill makes an appropriation to the department of health and human services for the purposes of funding rate increases for home care providers.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 1710 ought to pass with amendment. Last year during the budget, the legislature made a promise to the home healthcare providers. The bill, as amended by the Finance Committee, appropriates \$1.1 million for home healthcare providers, which they are short this year, and upholds that promise. The bill, as passed by the House, also appropriated \$2 million for an hourly rate increase for direct day care...for direct care workers. There was a dispute as to what the intent was of the legislature last year during the budget. The Senate position was clear. A raise was included in the budget that was to be provided to direct care workers. This was not implemented in this manner. Management thought it best, in some instances, to use that rate increase elsewhere in their budget. Given the financial situation of the state, and rather than award the providers for choosing not to use the increase as directed, the committee amendment removed this appropriation. The Finance Committee asks for your support of the motion of ought to pass with amendment. Thank you.

SENATOR FULLER CLARK: Thank you very much, Mr. President. I rise in opposition to the committee amendment, and I'd like to talk specifically about the fact that, with the committee amendment, that they remove funding for the community mental healthcare providers and centers, and that they remove funding for the direct care providers for persons with developmental and acquired disabilities. And the issue here is, that with regard to the mental health centers, that what has happened here is they have not been able to meet their physical year Medicaid billing projections, and that we are now sitting here, in terms of these community mental health centers with their inability to be able to have the resources to staff up their centers for services that are provided to the state by them. It is a critical problem and if we move beyond that and we look at the issue of the direct services for the developmental disabilities system, that the issue is there was a misunderstanding. We do need to fund these centers. That they shouldn't be penalized because of differences in legislative intent. What you are basically asking for here, for the state to contribute an increase of 12 cents per hour while the federal government would match the New Hampshire portion. And, with-

out adequate funding to offer competitive wages and benefits to direct support workers, we're only going to see further erosion of this workforce and it's going to have a very negative effect on the quality and accessibility of those services. This...these are areas of critical need to our state and to our citizens. And I ask you to overturn the amendment and support the bill as it came over from the House. Thank you.

SENATOR HASSAN: Thank you. I also rise in opposition to the committee amendment. I'll say it again, my father said, "You get what you pay for." My father also taught me that money isn't everything in life. And money isn't everything in life, which is why we have in this state, a dedicated group of providers who spend day in and day out working with some of the most vulnerable and most needy people in our population. These people don't clearly do it for the money, 'cause right now, a direct care provider in our disability system, earns less than the federal poverty level for a family of four. We've also turned down in this legislature this year, bills that would have made health insurance more accessible for some of those workers, because right now it's very difficult for them to afford. You get what you pay for. We say and we mean, and I know we mean it in this chamber, that we care about our most vulnerable citizens. But when it comes to spending money on them, we haven't been doing it. These people have not had a pay raise in ten to twelve years. And now we're saying we remove the pay raise because HHS sent the providers a letter that said they had the discretion to use that money last year as they saw fit. We're now holding direct care workers liable for their inability or unawareness that they're supposed to go read the legislative record in the Senate, as to how money is supposed to be spent by their director agency? That's appalling and it's silly. And it is not worthy of the dignity, and the good intentions, and the good actions, of this chamber. Direct care providers are essential to a deinstitutionalized system of care in this state. We say we're proud of ourselves for deinstitutionalizing, and then we do not provide an infrastructure that not only provides dignity to this group of citizens, but also provides freedom to their families. Freedom to work for a living. Freedom to be full members of our communities. And freedom to see their family members treated with the dignity that they deserve. We just voted a few minutes ago, we all voted for it, on pay increases for state workers. Something we should do. We paid to create a new position for Homeland Security. Something we should do. But homeland security is no more important, and no less important, than direct care of our most vulnerable citizens. I ask the members of this body to overturn the committee amendment. I ask you to do what is right and what is fitting to the intentions of this chamber, and fully fund a very modest request that will add up with the federal match to a mere 23 cents an hour for a group of people who do our most important work, who are superb at it, who would like to be doing it more. We might be able to get away from a 50 percent turnover rate in this field. And I ask that you support the most vulnerable people in our communities with this very modest act. Thank you.

SENATOR BOYCE: Thank you, Mr. President. I rise in opposition to the amendment. We were just told in one case that some of this money is needed because some of the community mental health centers were not able to meet their projections of Medicaid billings. Okay now, if you cut out the gobbledygook, what that means is, they didn't have as many people needing services or not as many people needing as many services, so they were not able to bill Medicaid as much, which to me, in any other business, which these people are in a business providing this service, if

you're in business and you have fewer customers requiring fewer services, gosh, you have to cut your staff to match the services you're providing. You have to cut your budget to match your income. They projected they were going to serve more people. Apparently they're not serving more people or they projected they were going to provide more services, they're not providing more services. So therefore, they're getting less money from Medicaid. They should reduce their budget. Provider rates. This is not the first time that the legislature has put money in the budget to increase provider pay raise. We've done it at least twice that I can recall since I've been in the legislature. We put money specifically in, to provide money to the providers. To give them a pay raise. And at least the second time, that the next year after that budget, we've been told, well, yeah, that money was put in the budget, but it didn't make it to the people that it was supposed to get to. We contract with companies or nonprofits or whatever you want to call them. They're contractors, to provide these services. They hire employees. As the employer, they decide how much to pay their employees. If they can hire employees for \$7 an hour, with or without benefits, that's what they can do. That's what they do. If people are willing to work for the wages they're willing to pay, that's what they do. If we give them extra money, what another...I forget what the number is in this section of it, but if we give them the extra money, there's still no guarantee they're going to give it to their employees. They may decide that the director needs a new car. They may decide that they need to improve their building. They may decide that they need to any number of things. Send their director off to a, some conference somewhere. We don't tell them what they can do with their money. We don't tell them how to run their business. We contract with them to provide the services. If they choose not to pay their employees the money we appropriate to them, well shame on them. It's not shame on us, we gave 'em money to pay their employees. If they decided they wanted to spend the money on something else, I don't care what else it is, don't come running back here asking us for more money to pay their employees again. This is the second time this has happened that I recall. So I just think that the Finance Committee did exactly the right thing, and we should pass the bill as it's already been amended. Thank you.

SENATOR MARTEL: Thank you very much, Mr. President. I wish to stand in full support of this bill and the committee amendment. It would be easy to point a finger until so much money is spent on providing services that we'd be in the utopia, but that's not the case. The Department of Health and Human Services and its chairman, commissioner, I should say, have been working very hard, very hard, since he's been there to make sure that monies are allotted to those who care for the people who reside in homes. He's kept them out of nursing homes, kept them out of assisted living homes. But he's kept them at home. In many cases, some of these people do work for less than what we should, what we consider a decent wage. But they are hired and they accept that position. Now, should we continue the work to increase the funding for these people? Absolutely, because they perform a great service for society, for their families or for friends or neighbors. I will continue to work on their behalf until we satisfy the amount of dollars necessary to make sure they are paid in equity for the work they're doing. So, Mr. President and members of the Senate, I ask you to kindly pass this bill and its amendment. It's a good one and it brings us in the right direction. And thank you very much, Mr. President.

SENATOR HASSAN: Thank you, Mr. President. I just rise to say that the record of this hearing indicates that the Department of Health and Human Services told the providers that they were free to spend this money on things other than direct care worker raises. So the game of scapegoating the direct care workers needs to stop. There's also nothing in the hearing record of this...for this bill that indicates that anybody, at any of these agencies were off buying new cars, taking expensive trips or somehow misusing their money. And the suggestion is offensive. I will just say that we are paying both on the Medicaid level and the Medicare level about 60 to 70 cents on the dollar of the actual cost of providing services in this state and to suggest that the providers are abusing this money for their own personal gain rather than trying to make the best with very limited funds, with very difficult choices in front of them, is beneath us. Thank you.

SENATOR FULLER CLARK: Yes, thank you very much for speaking a second time. I would like to clarify the issue regarding the mental health care workers, and why their projections for Medicaid reimbursement were down. They were down because they lost an unprecedented number of employees in the various mental health centers across the state. And they were not able to rehire or fill those positions. And so what happened was, they weren't able to deliver the services. It's not saying that there isn't a demand there and that there isn't the need. And I just wanted that to go on record. Thank you.

SENATOR MORSE: Thank you, Mr. President. I want to point out that we're still voting on the committee amendment, and the committee amendment is necessary because the committee amendment takes the first two paragraphs of the bill and adopts them and deletes the rest of the bill. And I'd like to explain what happened in the budget and what you can be proud of as a Senate. We said in the budget that there was a lawsuit with home care providers. We wanted them to settle it with the commissioner. We wanted him to work with them. They did that. So we came back and honored \$457,000 and \$719,000. That's what we're saying in this amendment right now. We're going to fund those. When we go on to talk about DD, this Senate added \$4.8 million. And don't forget where the budget was. We were struggling \$150 million behind when we got it from the House. We put \$4.8 million into this. Now it may have been in the floor speech that we talked about the money being used for something else in committee, and I'm sure one of the members brought it up. But quite frankly, if these organizations chose to use it for something else, God bless them. We got 'em more money because we thought they needed more money. We did that. \$4.8 million. I didn't hear anything, anything, until the last weekend on a call that I got from a friend. I apologized to her because I use her because she usually contacts me on things to help. And I said, "I'm sorry. I should have never used your name, and I did." But the fact is, they weren't asking. We did our job last year in the budget. And if they chose to use it for somewhere else, something else, and the only one that did quite frankly, I believe, was Manchester. But if they choose to use it to do something that they had to do, I'm not going to condemn 'em on that. But the fact is, there's not \$2 million sitting around. And we did our job in the budget. That was last year. That's why I ask you to support the committee's work on this, and support the committee's amendment.

SENATOR HASSAN: Thank you, Mr. President. For Senator Morse, please. I'm just wondering if the message we are now sending, given the way this committee amendment reads, is that the providers need to sue the state in order to get the money they need to pay their people?

SENATOR MORSE: I'm not sure how you come to that conclusion, but providers have sued the state before. I mean, there's litigation all the time. So.

SENATOR HASSAN: Follow up? Would you believe that I've come to that conclusion because the report and your comments just now said that the reason you kept the first section of the bill in is because the home care providers sued the state last year, and this was to encourage them to settle?

SENATOR MORSE: We actually met with them during the budget process and we asked them to sit down and work out their problems. We couldn't get that accomplished during that whole process. And we basically, after the commissioner coming back and urging to us to give them a raise, we did that.

SENATOR HASSAN: Thank you.

**The question is on adoption of the committee amendment.**

**A roll call was requested by Senator Fuller Clark.**

**Seconded by Senator Larsen.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**The following Senators voted No: Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**Yeas: 17 - Nays: 6**

**Amendment adopted.**

### **PARLIAMENTARY INQUIRY**

SENATOR BURLING: I mistook, Mr. President, which amendment we were working on. I'll ask to be recorded as a no vote.

SENATOR GATSAS (In the Chair): Parliamentary question, senator. You can't change...

### **MOTION OF RECONSIDERATION**

Senator Clegg having voted with the prevailing side, moved reconsideration of **HB 1710-FN-A**, whereby the committee amendment was adopted.

**Adopted.**

**HB 1710-FN-A**, relative to appropriations to the department of health and human services for home care providers and community mental centers and making an appropriation to increase the hourly rate of pay for direct care providers for persons with developmental and acquired disabilities and extending the provision of supplemental pharmacy assistance.

**The question is the adoption of the committee amendment (#2048).**

**A roll call was requested by Senator Fuller Clark.**

**Seconded by Senator Larsen.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**



**The following Senators voted No: Burling, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**Yeas: 16 – Nays: 7**

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1725-FN**, extending the pilot project relative to abuse and neglect hearings and relative to confidentiality in pilot project abuse and neglect cases. Finance Committee. Ought to pass, Vote 8-0. Senator Clegg for the committee.

**SENATOR CLEGG:** Thank you, Mr. President. I move House Bill 1725 ought to pass. This legislation continues the pilot project relative to abuse and neglect hearings for two years and extends the project to Sullivan County. The project currently is in operation in both Grafton and Rockingham Counties and has been very successful. The project merely allows individuals other than specifically involved parties to attend an abuse and neglect hearing, if permitted by the presiding judge. The Department of Health and Human Services sees no fiscal impact in the expansion of the program. The Finance Committee asks your support for the motion of ought to pass.

**Adopted.**

**Ordered to third reading.**

**HB 1735-FN**, relative to awarding the state employees' health insurance plan. Finance Committee. Ought to pass, Vote 7-1. Senator Larsen for the committee.

**SENATOR LARSEN:** Thank you. I move House Bill 1735 ought to pass. The bill allows for the inclusion of the University System of New Hampshire in the administration of the State Employees' Health Insurance Plan and creates a legislative committee to make recommendations and advise the Commissioner of Administrative Services on the state health employee group insurance program. The bill also repeals the law requiring a self-insured health plan for state employees. The Senate Finance Committee understands there is no cost associated with the bill as amended by the Senate, and no new funds are appropriated. The Finance Committee asks for your support for the motion of ought to pass.

**Adopted.**

**Ordered to third reading.**

**HB 1741-FN**, relative to reporting requirements concerning infections in hospitals. Finance Committee. Ought to pass, Vote 7-1. Senator Boyce for the committee.

**SENATOR BOYCE:** Thank you, Mr. President. I move that House Bill 1741 ought to pass. This bill requires hospitals to report on hospital acquired infections to the Department of Health and Human Services. Hospital acquired infections result in an estimated \$5 billion in unnecessary health costs and 90,000 deaths annually. House Bill 1741 would gradually phase in mandatory reporting of six categories of infection on a per hospital basis. The bill, as amended by the Senate, sets an effective date that will allow the required position and associated costs to be included in the next budget. The Finance Committee asks you to support the motion of ought to pass. Thank you.

**The question is on the committee report of ought to pass.**

**A roll call was requested by Senator Barnes.**

**Seconded by Senator Bragdon.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: None.**

**Yeas: 23 - Nays: 0**

**Adopted.**

**Ordered to third reading.**

**HB 1745-FN**, relative to methamphetamine-related crimes involving children and incapacitated adults. Finance Committee. Ought to pass, Vote 8-0. Senator Clegg for the committee.

SENATOR CLEGG: Thank you, Mr. President. I move House Bill 1745 ought to pass. The legislation establishes penalties and reporting requirements for methamphetamine-related crimes involving children and incapacitated adults. Because there are penalties established, the associated costs are as a result of the potentially increased caseload associated with new penalties. No new funds are appropriated in this legislation. The committee asks for your support for ought to pass.

**Adopted.**

**Ordered to third reading.**

**HB 1747-FN**, establishing a New Hampshire healthy tidal waters and shellfish protection program and making an appropriation therefor. Finance Committee. Ought to pass with amendment, Vote 8-0. Senator Green for the committee.

Sen. Green, Dist. 6

**April 19, 2006**

**2006-1917s**

**08/09**

#### **Amendment to HB 1747-FN**

Amend the bill by replacing section 1 with the following:

1 Purpose. The purpose of this act is to replace federal funds received in past years with state funds in order to keep an existing program fully operational. The state shall fund the program with a \$175,000 appropriation from the general fund. This act is consistent with and supported by 1993, 251 (HJR 4), approved June 15, 1993; RSA 143:26; RSA 211:63; RSA 143:21; RSA 143:21-a; and RSA 485-A:8, V.

Amend RSA 487:36 as inserted by section 2 of the bill by deleting paragraph IV.

Amend the bill by replacing section 4 with the following:

4 Appropriations. The sum of \$175,000 is hereby appropriated for the fiscal year ending June 30, 2007 to the healthy tidal waters and shellfish protection fund established in RSA 487:36. The governor is authorized to draw a warrant for said sum of any money in the treasury not otherwise appropriated.

SENATOR GREEN: Thank you, Mr. President. I move that House Bill 1747 ought to pass with amendment. The intent of this legislation is to help

continue an effective New Hampshire Healthy Tidal Waters and Shellfish Protection Program. Since its creation in 1999, this program has been funded with federal money. However, federal funds for the program will decrease by about \$100,000 next year. This legislation appropriates \$175,000. The amendment changes the date for funds to be appropriated to the fiscal year ending June 30, 2007. The program promotes healthy seafood and helps maintain a healthy seashore. In doing so, it benefits the public health and the tourism industry in the seacoast. The Finance Committee asks for your support for the motion of ought to pass.

**SENATOR FULLER CLARK:** Thank you very much, Mr. President. I'd like to rise and thank the Finance Committee on behalf of the seacoast and the various communities there for recognizing the importance of this program and for providing them \$175,000 to insure that it can go forward, and that we're meeting our responsibility just the way all the other states in New England have by being willing to fund this program as well. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1126**, relative to licenses for first mortgage bankers, brokers, pawn-brokers, and money lenders. Banks and Insurance Committee. Ought to pass with amendment, Vote 4-0. Senator Gottesman for the committee.

**Banks and Insurance**

**April 18, 2006**

**2006-1885s**

**08/09**

### **Amendment to HB 1126**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to licenses for first mortgage bankers, brokers, pawn-brokers, and money lenders and relative to licensing of money transmitters.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Definitions. Amend RSA 361-A:1 by inserting after paragraph III-b the following new paragraph:

III-c. "Direct owner" means any person, including individuals, that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of 10 percent or more of the applicant or licensee.

2 New Paragraph; Definitions. Amend RSA 361-A:1 by inserting after paragraph VI the following new paragraph:

VI-a. "Indirect owner" means, with respect to direct owners and other indirect owners in a multilayered organization:

(a) In the case of an owner that is a corporation, each of its shareholders that beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 25 percent or more of that corporation.

(b) In the case of an owner that is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 25 percent or more of the partnership's capital.

(c) In the case of an owner that is a trust, the trustee, each trustee and each beneficiary of 25 percent or more of the trust.

(d) In the case of an owner that is a Limited Liability Company ("LLC"):

(1) Those members that have the right to receive upon dissolution, or have contributed, 25 percent or more of the LLC's capital; and

(2) If managed by elected managers, all elected managers.

(e) In the case of an indirect owner, the parent owners of 25 percent or more of their subsidiary.

3 New Paragraph; Definitions. Amend RSA 361-A:1 by inserting after paragraph VIII-b the following new paragraph:

VIII-c. "Publicly traded" means a company whose securities are traded on a securities exchange system approved and supervised by the Securities and Exchange Commission, including but not limited to the NYSE, AMEX, BSE, and NASDAQ. The term also includes a public reporting company that is subject to sections 12 or 15(d) of the Securities Exchange Act of 1934.

4 Licensed Retail Sellers. Amend the introductory paragraph of RSA 361-A:1, XIII to read as follows:

XIII. "Sales finance company" means a person engaged, in whole or in part, directly or indirectly, in the business of providing motor vehicle financing in this state to one or more retail buyers, or in the business of purchasing retail installment contracts from one or more retail sellers. The term includes but is not limited to any federally chartered bank, savings bank, trust company, credit union, cooperative bank, finance company, lending agency, industrial bank, or investment company, if so engaged. The term does not include the pledgee of an aggregate number of such contracts to secure a bona fide loan thereon, nor does it include a *licensed* retail seller who:

5 Licensing of Sales Finance Companies and Retail Sellers Required. Amend RSA 361-A:2, II to read as follows:

II.(a) The application for such license shall be in writing and verified on a form prescribed by the commissioner. The application shall contain the name of the applicant; ***the tax applicant's identification number***; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the trade name, if any, under which the applicant proposes to conduct such business; and such other pertinent information as the commissioner may require. The application shall include a list of the names and resident addresses of principals and the name of any person occupying a similar status or performing similar functions. Each principal ***and indirect owner*** shall ***provide his or her social security numbers and shall*** authorize the commissioner to conduct a background check. The applicant shall submit any other information that the commissioner may require including, but not limited to, the applicant's form and place of organization, the applicant's proposed method of doing business, the qualifications and business history of the applicant and those persons listed in the application, and in the case of sales finance companies, the applicant's financial condition and history. The applicant shall disclose if any injunction or administrative order has been issued against the applicant or any of its principals ***or indirect owners*** listed in the application and whether the applicant or any of its principals ***or indirect owners*** have been convicted of a misdemeanor involving the lending industry or any aspect of the lending business or convicted of any felony.

(1) Unless the applicant is a publicly traded corporation, the department shall complete a background investigation and criminal history records check on the applicant's principals and any person in a similar

position or performing similar functions. If the applicant is a subsidiary, the department shall complete a background investigation and criminal history records check on ~~[the principals of each equity]~~ **individuals who are indirect** ~~[owner of 10 percent or more of the applicant unless such equity owner is a publicly traded corporation]~~ **owners.**

6 Retail Sellers and Finance Companies Required to Update Information. Amend RSA 361-A:2, XII to read as follows:

XII. Retail sellers and sales finance companies licensed under this chapter are under a continuing obligation to update information on file with the commissioner. If any information filed with the commissioner becomes materially inaccurate, the retail seller and sales finance company licensee shall promptly submit an amendment to its application records to correct the information on file with the commissioner. An amendment shall be considered to be filed promptly if the amendment is filed within 30 days of the event that requires the filing of the amendment. ***Certain significant events as defined by rule shall be reported to the department in writing within 10 calendar days.*** A licensee shall submit written notification to the department of the addition or deletion of a person required to be listed in the application, and shall provide the name and address of each new person required to be listed no later than 30 days after such change. Each new person required to be listed shall ***provide his or her social security number and*** authorize the commissioner to conduct a background check. The commissioner shall investigate management and ownership changes including, but not limited to, the qualifications and business history of each person required to be listed. The licensee shall investigate and disclose any injunction or administrative order that has been issued against the person required to be listed and whether the person required to be listed has been convicted of a misdemeanor involving the lending industry or any aspect of the lending business or convicted of any felony, prior to the commissioner's approval of such change.

7 Compensation; Assistants. Amend RSA 383:7 to read as follows:

383:7 Compensation; Assistants.

***I.*** The annual salary of the bank commissioner, and that of the deputy commissioner, shall be that prescribed by RSA 94:1-4. The commissioner may appoint examiners and such assistants as may be necessary, within the limits of the appropriations therefor and the rules of the state personnel system. The commissioner, deputy commissioner, examiners, and other assistants shall be allowed their actual traveling expenses when engaged in their official duties. No person shall serve as examiner who would be disqualified to serve as commissioner under the limitations of RSA 383:6, except that examiners may be indebted to such corporations and associations at the time of their appointment, or thereafter, provided any such debt is incurred primarily for personal, household, or family purposes and on terms no more favorable than those afforded to other borrowers, the examiner's employment is disclosed to such corporation or association, and both the examiner and the corporation or association disclose to the commissioner that a debt has been incurred.

***II.*** ***The banking department shall complete a background investigation and a criminal history records check on every selected applicant for employment in any position in the banking department prior to a final offer of employment. The banking department may extend a conditional offer of employment to a selected applicant after completing a background investigation, with a final offer of employment subject to a successfully completed criminal history records check. No selected applicant may be extended***

*a conditional offer of employment unless the banking department has initiated a criminal history records check. The banking department shall not be held liable in any lawsuit alleging that the extension of a conditional or final offer of employment to an applicant with a criminal history was in any way negligent or deficient if the banking department fulfilled the requirements of this section.*

*III. The selected applicant for employment shall submit to the banking department a notarized criminal history records release form, as provided by the division of state police, which authorizes the release of the person's criminal records, if any. The applicant shall submit with the release form a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the banking department. In the event that the first set of fingerprints is invalid due to insufficient pattern and a second set of fingerprints is necessary in order to complete the criminal history records check, the conditional offer of employment shall remain in effect. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the banking department may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where an applicant has lived during the past 5 years.*

*IV. The banking department shall submit the criminal history records release form to the New Hampshire division of state police, which shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation. Upon completion of the background investigation, the division of state police shall release copies of the criminal conviction records to the department. The department shall maintain the confidentiality of all criminal history records information received pursuant to this paragraph.*

*V. This section applies to any employee or selected applicant for employment of the banking department.*

8 Payment of Cost of Examination. Amend RSA 383: 11, II (b) to read as follows:

(b) From non-depository lenders and brokers. Each licensee subject to the supervision of the bank commissioner under the provisions of RSA 397-A, ~~[RSA 398-A,]~~ RSA 399-A, and sales finance companies under RSA 361-A, shall be charged and shall pay such proportion of said balance applicable to the consumer credit administration division under the banking department's program appropriation unit designation as its total dollar volume of loans made, originated, funded or brokered bear to the total dollar volume of all such loans made, originated, funded or brokered by such licensees during the preceding calendar year ending December 31, as shown by their annual reports to the commissioner.

9 New Paragraph; Definitions. Amend RSA 397-A:1 by inserting after paragraph VI the following new paragraph:

VI-a. "Direct owner" means any person, including individuals, that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of 10 percent or more of the applicant or licensee.

10 New Paragraph; Definitions. Amend RSA 397-A:1 by inserting after paragraph VIII the following new paragraph:

VIII-a. "Indirect owner" means, with respect to direct owners and other indirect owners in a multilayered organization:

(a) In the case of an owner that is a corporation, each of its shareholders that beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 25 percent or more of that corporation.

(b) In the case of an owner that is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 25 percent or more of the partnership's capital.

(c) In the case of an owner that is a trust, the trust, each trustee and each beneficiary of 25 percent or more of the trust.

(d) In the case of an owner that is a Limited Liability Company ("LLC"):

(1) Those members that have the right to receive upon dissolution, or have contributed, 25 percent or more of the LLC's capital; and

(2) If managed by elected managers, all elected managers.

(e) In the case of an indirect owner, the parent owners of 25 percent or more of their subsidiary.

11 New Paragraph; Definitions. Amend RSA 397-A:1 by inserting after paragraph XX the following new paragraph:

XX-a. "Publicly traded" means a company whose securities are traded on a securities exchange system approved and supervised by the Securities and Exchange Commission, including but not limited to the NYSE, AMEX, BSE, and NASDAQ. The term also includes a public reporting company that is subject to Sections 12 or 15(d) of the Securities Exchange Act of 1934.

12 License Application; Requirements; Investigations. Amend RSA 397-A:5, I and II(a) to read as follows:

I. To be considered for licensing, each person shall complete and file with the department one verified application prescribed by the commissioner. At a minimum, the application shall state the primary business address of the applicant, ***the applicant's tax identification number***, the address of its principal office and all branch offices located or to be located within the state, and a list of the principals of the applicant. Each principal ***and indirect owner*** shall ***provide his or her social security number and shall*** authorize the commissioner to conduct a background check. The applicant shall submit any other information that the commissioner may require including, but not limited to, the applicant's form and place of organization, the applicant's proposed method of doing business, the qualifications and business history of the applicant and its principals, and the applicant's financial condition and history. The applicant shall disclose whether the applicant or any of its principals ***or indirect owners*** has ever been issued or been the subject of an injunction or administrative order, has ever been convicted of a misdemeanor involving the lending industry or any aspect of the lending business or has ever been convicted of any felony.

II.(a) Unless the applicant is a publicly traded corporation, the department shall complete a background investigation and criminal history records check on the applicant's principals and any person in a similar position or performing similar functions. If the applicant is a subsidiary, the department shall complete a background investigation and criminal history records check on the ~~[principals of each equity]~~ ***individuals who are indirect*** ~~[owner of 10 percent or more of the applicant unless such equity owner is a publicly traded corporation]~~ ***owners***.

13 License Applications; Requirements. Amend RSA 397-A:5, III(c) to read as follows:

(c) Each applicant shall be required to submit to the department detailed financial information sufficient for the commissioner to deter-

mine the applicant's ability to conduct the business of a mortgage banker or a mortgage broker with financial integrity. The application shall include a statement of net worth. An applicant or licensee shall demonstrate and maintain a positive net worth. Net worth statements provided in connection with a license application under this section shall be subject to review and verification during the course of any examination or investigation conducted under the authority of RSA 397-A:12. Each mortgage banker applicant shall demonstrate a net worth at all times of at least \$100,000 or increase their posted continuous surety bond to a total amount of \$100,000. Each mortgage **banker and** broker shall post a continuous surety bond in the amount of \$20,000 to the commissioner. Surety bonds shall include a provision requiring the surety to give written notice to the commissioner 20 days in advance of the cancellation or termination of the bond. Every bond shall provide that no recovery may be made against the bond unless the state makes a claim for recovery or the person brings suit naming the licensee within 6 years after the act upon which the recovery or suit is based.

14 New Paragraph; License Requirements. Amend RSA 397-A:5 by inserting after paragraph VI the following new paragraph:

VII. Licensees shall comply with the provisions of HOEPA at all times.

15 Change in Name; Ownership; Location. Amend RSA 397-A:10, IV to read as follows:

IV. Persons licensed under this chapter are under a continuing obligation to update information on file with the commissioner. If any information filed with the commissioner becomes materially inaccurate, the licensee must promptly submit to the commissioner an amendment to its application records that will correct the information on file with the commissioner. An amendment shall be considered to be filed promptly if the amendment is filed within 30 days of the event that requires the filing of the amendment. ***Certain significant events as defined by rule shall be reported to the department in writing within 10 calendar days.***

16 Annual Report. Amend RSA 397-A:13, I to read as follows:

I. Each licensee shall file, under oath, an annual report with the banking department on or before February 1 each year concerning operations for the preceding year or license period ending December 31 upon the form prescribed by the banking department. The annual report shall include a list of all individuals, and the address of the work location ***or an undertaking to provide the address immediately upon the department's request***, of each such individual, who act as originators for the licensee.

17 New Paragraph; Lender's Rights and Broker's Rights. Amend RSA 397-A:16 by inserting after paragraph IV the following new paragraph:

V. In order to issue rate lock commitments, a licensee shall comply with rules adopted by the commissioner.

18 Lender's and Broker's Rights; Second Mortgage Debt. Amend RSA 397-A:16-a, XIII to read as follows:

XIII. Any second mortgage loan made in violation of paragraphs I-VIII by any person shall be discharged upon payment or tender by the debtor or any person succeeding to his or her interest in such real estate of the principal sum actually borrowed. Any agreement whereby the borrower waives the benefits of paragraphs I-VIII or releases any rights he or she may have acquired by virtue thereof shall be deemed against public policy and void. ~~[The superior court shall have jurisdiction of all suits arising under paragraphs I-VIII and, if a finding is made that such~~



~~loan secured by any such mortgage violates paragraphs I-VIII, the borrower shall be entitled as a part of his or her costs to a reasonable fee for the services of an attorney in such suit.]~~

19 New Paragraph; Definitions. Amend RSA 397-B:1 by inserting after paragraph I-a the following new paragraph:

I-b. "Direct owner" means any person, including individuals, that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of 10 percent or more of the applicant or licensee.

20 New Paragraph; Definitions. Amend RSA 397-B:1 by inserting after paragraph II the following new paragraph:

II-a. "Indirect owner" means, with respect to direct owners and other indirect owners in a multilayered organization:

(a) In the case of an owner that is a corporation, each of its shareholders that beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 25 percent or more of that corporation.

(b) In the case of an owner that is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 25 percent or more of the partnership's capital.

(c) In the case of an owner that is a trust, the trust, each trustee and each beneficiary of 25 percent or more of the trust.

(d) In the case of an owner that is a Limited Liability Company ("LLC"):

(1) Those members that have the right to receive upon dissolution, or have contributed, 25 percent or more of the LLC's capital; and

(2) If managed by elected managers, all elected managers.

(e) In the case of an indirect owner, the parent owners of 25 percent or more of their subsidiary.

21 New Paragraph; Definitions. Amend RSA 397-B:1 by inserting after paragraph V the following new paragraph:

VI. "Publicly traded" means a company whose securities are traded on a securities exchange system approved and supervised by the Securities and Exchange Commission, including but not limited to the NYSE, AMEX, BSE, and NASDAQ. The term also includes a public reporting company that is subject to Sections 12 or 15(d) of the Securities Exchange Act of 1934.

22 Application of Chapter. Amend RSA 397-B:2, II to read as follows:

II. Persons subject to or [~~licensed~~] **registered** under this chapter shall abide by applicable federal laws and regulations, the laws and rules of this state, and the orders of the commissioner. Any violation of such law, regulation, or rule is a violation of this chapter.

23 Registration; Fees; Term; Renewal. Amend RSA 397-B:4, I(b) and (c) to read as follows:

(b) The applicant shall submit any other information that the commissioner may require including, but not limited to, the applicant's form and place of organization, **the applicant's tax identification number**, and the applicant's proposed method of doing business. The applicant shall disclose whether the applicant or any of its principals **or indirect owners** has ever been issued or been the subject of an injunction or administrative order, has ever been convicted of a misdemeanor involving the lending industry or any aspect of the lending business, or has ever been convicted of any felony. Each principal **and indirect owner** shall **provide his or her social security number and** authorize the commissioner to conduct a background check.

(c) Unless the applicant is a publicly traded corporation, the department shall complete a background investigation and criminal his-

tory records check on the applicant's principals and any person in a similar position or performing similar functions. If the applicant is a subsidiary, the department shall complete a background investigation and criminal history records check on ~~[the principals of each equity owner of 10 percent or more of the applicant unless such equity owner is a publicly traded corporation]~~ **individuals who are indirect owners.**

24 Exemption. Amend RSA 397-B:10 to read as follows:

397-B:10 Exemption. The provisions of this chapter shall not apply to any bank, trust company, savings and loan association, or cooperative bank, savings bank, or credit union which may be chartered by this state or any other state or by any agency of the United States, nor shall the registration provisions of this chapter apply to any individual or entity licensed by the banking department **as a mortgage banker** in accordance with RSA 397-A.

25 New Paragraph; Definitions. Amend 399-A:1 by inserting after paragraph III-a the following new paragraph:

III-b. "Direct owner" means any person, including individuals, that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of 10 percent or more of the applicant or licensee.

26 New Paragraph; Definitions. Amend 399-A:1 by inserting after paragraph V the following new paragraph:

V-a. "Indirect owner" means, with respect to direct owners and other indirect owners in a multilayered organization:

(a) In the case of an owner that is a corporation, each of its shareholders that beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 25 percent or more of that corporation.

(b) In the case of an owner that is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 25 percent or more of the partnership's capital.

(c) In the case of an owner that is a trust, the trust, each trustee and each beneficiary of 25 percent or more of the trust.

(d) In the case of an owner that is a Limited Liability Company ("LLC"):

(1) Those members that have the right to receive upon dissolution, or have contributed, 25 percent or more of the LLC's capital; and

(2) If managed by elected managers, all elected managers.

(e) In the case of an indirect owner, the parent owners of 25 percent or more of their subsidiary.

27 New Paragraph; Definitions. Amend RSA 399-A:1 by inserting after paragraph XIII-a the following new paragraph:

XIII-b. "Publicly traded" means a company whose securities are traded on a securities exchange system approved and supervised by the Securities and Exchange Commission, including but not limited to the NYSE, AMEX, BSE, and NASDAQ. The term also includes a public reporting company that is subject to Sections 12 or 15(d) of the Securities Exchange Act of 1934.

28 Application and Fees. Amend RSA 399-A:3, 1(a) and (b) to read as follows:

I.(a) Every applicant for licensing under this chapter shall file with the commissioner a written verified application, on a form prescribed by the commissioner. The application shall contain the name of the applicant; **the applicant's tax identification number**; the address where the business is or is to be conducted and similar information for any branch office of the applicant; the trade name, if any, under which the

applicant proposes to conduct such business; the articles of incorporation or organization or partnership agreement; the name and address of the New Hampshire resident agent if the applicant is a foreign entity; and such other pertinent information as the commissioner may require. The application shall include the names of the applicant's principals, **indirect owners**, and the name of any person occupying a similar status or performing similar functions. Each such principal **and indirect owner** shall **provide his or her social security number and shall** authorize the commissioner to conduct a background check. The applicant shall submit any other information that the commissioner may require including, but not limited to, the applicant's form and place of organization, the applicant's proposed method of doing business, the qualifications and business history of the applicant and its principals, and the applicant's financial condition and history. The applicant shall disclose if any injunction or administrative order has been issued against the applicant or any of its principals **or indirect owners** and whether the applicant or any of its principals **or indirect owners** have been convicted of a misdemeanor involving the lending industry or any aspect of the lending business or of any felony. Each applicant and licensee who conducts payday or title loan lending shall maintain an office in this state that is accessible to consumers. Persons subject to this chapter shall be responsible for the supervision of their employees, agents, and branch offices. Each initial and renewal license application shall be accompanied by a nonrefundable application fee of \$450 for the principal place of business of the licensee and the sum of \$450 for each branch of such licensee maintained in this state.

(b) Unless the applicant is a publicly traded corporation, the department shall complete a background investigation and criminal history records check on the applicant's principals and any person in a similar position or performing similar functions. If the applicant is a subsidiary, the department shall complete a background investigation and criminal history records check on ~~[the principals of each equity owner of 10 percent or more of the applicant unless such equity owner is a publicly traded corporation]~~ **individuals who are indirect owners.**

29 Investigation of Application; License Requirements. Amend RSA 399-A:4, VII to read as follows:

VII. Persons licensed under this chapter are under a continuing obligation to update information on file with the commissioner. If any information filed with the commissioner becomes materially inaccurate, the licensee shall promptly submit an amendment to its application records that will correct the information on file with the commissioner. An amendment shall be considered to be filed promptly if the amendment is filed within 30 days of the event that requires the filing of the amendment. A licensee shall submit written notification to the department of the addition or deletion of a principal, and shall provide the name and address of each new principal no later than 30 days after such change. Each new principal shall authorize the commissioner to conduct a background check. The commissioner shall investigate management and ownership changes including, but not limited to, each principal's qualifications and business history. The licensee shall investigate and disclose any injunction or administrative order that has been issued against the principal and whether the principal has been convicted of a misdemeanor involving the lending industry or any aspect of the lending business or convicted of any felony, prior to the commissioner's approval of such change. ***Certain significant events as defined by rule shall be reported to the department in writing within 10 calendar days.***

30 New Paragraphs. Definitions. Amend RSA 399-D:2 by inserting after paragraph V-a the following new paragraphs:

V-b. "Direct owner" means any person, including individuals, that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of 10 percent or more of the applicant or licensee.

V-c. "Indirect owner" means, with respect to direct owners and other indirect owners in a multilayered organization:

(a) In the case of an owner that is a corporation, each of its shareholders that beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 25 percent or more of that corporation.

(b) In the case of an owner that is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 25 percent or more of the partnership's capital.

(c) In the case of an owner that is a trust, the trust, each trustee and each beneficiary of 25 percent or more of the trust.

(d) In the case of an owner that is a Limited Liability Company ("LLC"):

(1) Those members that have the right to receive upon dissolution, or have contributed, 25 percent or more of the LLC's capital; and

(2) If managed by elected managers, all elected managers.

(e) In the case of an indirect owner, the parent owners of 25 percent or more of their subsidiary.

31 New Paragraph. Definitions. Amend RSA 399-D:2 by inserting after paragraph VIII the following new paragraph:

IX. "Publicly traded" means a company whose securities are traded on a securities exchange system approved and supervised by the Securities and Exchange Commission, including but not limited to the NYSE, AMEX, BSE, and NASDAQ. The term also includes a public reporting company that is subject to Sections 12 or 15(d) of the Securities Exchange Act of 1934.

32 License Application; Requirements; Investigations. Amend the introductory paragraph of RSA 399-D:5, II to read as follows:

II. To be considered for licensing, each person, firm, or corporation shall file with the department one verified application on a form prescribed by the commissioner. At a minimum, the application shall be in writing, setting forth the primary business address of the applicant, ***the applicant's tax identification number***, the address of its principal office and all branch offices located or to be located within the state, and a list of the principals ***or indirect owners*** and the name of any person occupying a similar status or performing similar functions. Each principal ***and indirect owner shall provide his or her social security number and*** shall authorize the commissioner to conduct a background check. The applicant shall submit any other information that the commissioner may require including, but not limited to, the applicant's form and place of organization, the applicant's proposed method of doing business, qualifications, and business history of the applicant and those persons listed in the application, and the applicant's financial condition and history. The applicant shall disclose if any injunction or administrative order has been issued against the applicant or any of its principals ***or indirect owners*** and whether the applicant or any of its principals ***or indirect owners*** have been convicted of a misdemeanor involving the lending industry or any aspect of the lending business or convicted of any felony. Each application shall designate the name and address of the manager or person in charge at each licensed location and shall contain

other information required by rules adopted under this chapter. The applicant shall submit any other information that the commissioner may require. In addition:

33 License Application; Requirements; Investigations. Amend RSA 399-D:5, II(f) to read as follows:

(f) Unless the applicant is a publicly traded corporation, the department shall complete a background investigation and criminal history records check on the applicant's principals and any person in a similar position or performing similar functions. If the applicant is a subsidiary, the department shall complete a background investigation and criminal history records check on ~~the principals of each equity owner of 10 percent or more of the applicant unless such equity owner is a publicly traded corporation~~ **individuals who are indirect owners.**

34 Licensee's Duties. Amend RSA 399-D:15, VII to read as follows:

VII. Persons licensed under this chapter are under a continuing obligation to update information on file with the commissioner. If any information filed with the commissioner becomes materially inaccurate, the licensee shall promptly submit to the commissioner an amendment to its application records that will correct the information on file with the commissioner. An amendment shall be considered to be filed promptly if the amendment is filed within 30 days of the event that required the filing of the amendment. ***Certain significant events as defined by rule shall be reported to the department in writing within 10 calendar days.***

35 New Chapter; Licensing of Money Transmitters. Amend RSA by inserting after chapter 399-F the following new chapter:

#### CHAPTER 399-G

##### LICENSING OF MONEY TRANSMITTERS

399-G:1 Definitions. In this chapter:

I. "Authorized delegate" means a person a licensee designates to provide money transmission services on behalf of the licensee.

II. "Commissioner" means the bank commissioner.

III. "Department" means the banking department.

IV. "Direct owner" means any person, including individuals, that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of 10 percent or more of the applicant or licensee.

V. "Indirect owner" means, with respect to direct owners and other indirect owners in a multilayered organization:

(a) In the case of an owner that is a corporation, each of its shareholders that beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 25 percent or more of that corporation;

(b) In the case of an owner that is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 25 percent or more of the partnership's capital;

(c) In the case of an owner that is a trust, the trust, each trustee, and each beneficiary of 25 percent or more of the trust;

(d) In the case of an owner that is a limited liability company (LLC), (1) those members that have the right to receive upon dissolution, or have contributed, 25 percent or more of the LLC's capital, and (2) if managed by elected managers, all elected managers; and

(e) In the case of an indirect owner, the parent owners of 25 percent or more of their subsidiary.

VI. "Licensee" means a person duly licensed by the commissioner under this chapter.

VII. "Monetary value" means a medium of exchange, whether or not redeemable in money.

VIII. "Money transmission" means engaging in the business of selling or issuing payment instruments or stored value, or receiving money or monetary value for transmission to another location.

IX. "Payment instrument" means any electronic or written check, draft, money order, traveler's check, or other electronic or written instrument or order for the transmission or payment of money or monetary value, sold or issued to one or more persons, whether or not negotiable. The term does not include a credit card voucher, letter of credit, or instrument that is redeemable by the issuer in goods or services.

X. "Person" means an individual, corporation, business trust, estate, trust, partnership, association, 2 or more persons having a joint or common interest, or any other legal or commercial entity however organized.

XI. "Principal" of the applicant or licensee means an owner with 10 percent or more ownership interest in the applicant or licensee, a corporate officer, director, member, general and limited liability partner, limited partner with 10 percent or more ownership interest, trustee, beneficiary of 10 percent or more of the trust that owns the applicant or licensee, senior manager, and any person occupying similar status or performing similar functions.

XII. "Principal office" means the main office location of a person required to be licensed under this chapter.

XIII. "Publicly traded" means a company whose securities are traded on a securities exchange system approved and supervised by the Securities and Exchange Commission, including but not limited to the NYSE, AMEX, BSE, and NASDAQ. The term also includes a public reporting company that is subject to sections 12 or 15(d) of the Securities Exchange Act of 1934.

XIV. "Stored value" means monetary value that is evidenced by an electronic record.

#### 399-G:2 Application of Chapter.

I. This chapter authorizes the banking department to regulate persons that engage in the business of money transmission.

II. Any money transmitted under the provisions of this chapter shall be further governed by any other applicable laws of the state of New Hampshire.

III. Notwithstanding any provisions to the contrary, nothing within this chapter shall restrict the right of the attorney general to enforce the provisions of RSA 358-A:2, XIII, regarding the issuance and terms of stored value cards which are gift certificates as defined by RSA 358-A:1, IV-a.

IV. Persons subject to or licensed under this chapter shall abide by applicable federal laws and regulations, the laws and rules of this state, and the orders of the commissioner. Any violation of such law, regulation, or rule is a violation of this chapter.

V. Licensing in the state of New Hampshire under this chapter does not constitute a finding that the commissioner has passed in any way upon the merits or qualifications of such person or that the commissioner has recommended or given approval to any person. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with the provisions of this paragraph.

VI. Any license or registration fee required by this chapter shall be paid before a license or registration becomes effective.

399-G:3 License Required. Any person not exempt under RSA 399-G:4 that, in its own name or on behalf of other persons, engages in the business of money transmission shall obtain a license from the banking department.

399-G:4 Exemptions. The provisions of this chapter shall not apply to:

I. Any bank, trust company, savings and loan association, profit sharing and pension trust, credit union, thrift company, insurance company, or receivership, which may be chartered by this state or any other state or by any agency of the United States.

II. The United States or any department, instrumentality, or agency thereof.

III. A state, county, city, or any other governmental agency or governmental subdivision of a state.

IV. Electronic funds transfer of governmental benefits for a federal, state, county, or governmental agency by a contractor on behalf of the United States or a department, agency, or instrumentality thereof, or a state or governmental subdivision, agency, or instrumentality thereof.

V. Retailers issuing stored value credits or gift cards.

VI. Other persons not within the intent of this chapter as the commissioner may designate by rule or order.

399-G:5 License Application; Requirements; Investigation.

I. To be considered for licensing, each person shall complete and file with the department one verified application prescribed by the commissioner. At a minimum, the application shall state the primary business address of the applicant, the applicant's tax identification number, the address of its principal office and all authorized delegates located or to be located within the state, and a list of the principals of the applicant. Each principal and indirect owner shall provide their social security number and shall authorize the commissioner to conduct a background check. The applicant shall submit any other information that the commissioner may require including, but not limited to, the applicant's form and place of organization, the applicant's proposed method of doing business, the qualifications and business history of the applicant and those persons listed in the application, and the applicant's financial condition and history. The applicant shall disclose whether the applicant or any of its principals or indirect owners has ever been issued or been the subject of an injunction or administrative order, has ever been convicted of a misdemeanor involving the financial services industry or any aspect of the financial services business or has ever been convicted of any felony.

II.(a) The license issued for the licensee's principal place of business shall be referred to as a "principal office license." Each additional authorization to conduct business issued for money transmission occurring in a location in this state that is separate from the licensee's principal place of business shall be referred to as an "authorized delegate registration." If the applicant desires to transmit money in more than one location, the commissioner, upon favorable action on the applicant's principal office license, shall issue an "authorized delegate registration" for each location where the business of money transmission is to be conducted.

(b) Each license application shall be accompanied by a nonrefundable application fee of \$500 for each principal office and \$25 for each authorized delegate registration, up to a maximum annual fee of \$4,000. Sums collected under this chapter shall be payable to the state treasurer as restricted revenue and credited to the appropriation for the commissioner, consumer credit administration division.

(c) Each applicant shall submit detailed financial information sufficient for the commissioner to determine the applicant's ability to con-

duct the business of a money transmitter with financial integrity. The application shall include a statement of net worth in all cases and an applicant shall demonstrate and maintain a positive net worth computed in accordance with generally accepted accounting principles. Net worth statements provided in connection with a license application under this section shall be subject to review and verification during the course of any examination or investigation conducted under the authority of RSA 399-G:13. Each money transmitter applicant shall post a continuous surety bond in the amount of \$100,000. The surety bond shall be payable to the state of New Hampshire and the bank commissioner of the state of New Hampshire for the benefit of any person who is damaged by any violation of this chapter and shall be conditioned upon the licensee's compliance with each provision of this chapter. Surety bonds shall include a provision requiring the surety to give written notice to the commissioner 20 days in advance of the cancellation or termination of the bond. Every bond shall provide that no recovery may be made against the bond unless the state makes a claim for recovery or the person brings suit naming the principal within 6 years after the act upon which the recovery or suit is based. The obligations of the surety shall survive the bankruptcy, insolvency, liquidation, or reorganization of the licensee, including, without limitation, any bankruptcy, insolvency, liquidation, or reorganization commenced by or against the licensee under any applicable state or federal law, including the United States Bankruptcy Code.

(d) Unless the applicant is a publicly traded corporation, the department shall complete a background investigation and criminal history records check on the applicant's principals and any person in a similar position or performing similar functions. If the applicant is a subsidiary, the department shall complete a background investigation and criminal history records check on individuals who are indirect owners.

(e) The persons described in subparagraph (d) shall submit to the department a notarized criminal history records release form, as provided by the New Hampshire division of state police, which authorizes the release of the person's criminal records, if any. The person shall submit with the release form a complete set of fingerprints taken by a qualified law enforcement agency or an authorized employee of the banking department. In the event that the first set of fingerprints is invalid due to insufficient pattern, a second set of fingerprints is necessary in order to complete the criminal history records check. If, after 2 attempts, a set of fingerprints is invalid due to insufficient pattern, the department may, in lieu of the criminal history records check, accept police clearances from every city, town, or county where the person has lived during the past 5 years.

(f) The department shall submit the criminal history records release form to the New Hampshire division of state police, which shall conduct a criminal history records check through its records and through the Federal Bureau of Investigation. Upon completion of the background investigation, the division of state police shall release copies of the criminal conviction records to the department. The department shall maintain the confidentiality of all criminal history records information received pursuant to this paragraph.

(g) The department may require the applicant or licensee to pay the actual costs of each background investigation and criminal history records check.

III. Every applicant for licensing under this chapter shall file with the commissioner, in such form as the commissioner prescribes by rule, irrevocable consent appointing the commissioner to receive service of any



lawful process in any non-criminal suit, action, or proceeding against the applicant or the applicant's successor, executor, or administrator which arises under this chapter or any rule or order under this chapter after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous application need not file another. Any other person who engages in conduct regulated by this chapter shall be deemed to have appointed the commissioner as its agent. Service may be made by leaving a copy of the process in the office of the commissioner along with \$5, but is not effective unless:

(a) The plaintiff, who may be the attorney general in a suit, action, or proceeding instituted by him or her, forthwith sends a notice of the service and a copy of the process by registered mail to the defendant or respondent at such person's last address on file with the commissioner; and

(b) The plaintiff's affidavit of compliance with this paragraph is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

IV. Upon the applicant's filing of the complete application and payment of the required fee, the commissioner shall have, in accordance with RSA 541-A:29, up to 120 days to investigate and determine whether the applicant's financial resources, experience, personnel, and record of past or proposed conduct warrant the public's confidence and the issuance of a license.

V. The commissioner may license or register individuals or firms by means of or through the facilities of a national organization which facilitates registration and licensing on a nationwide basis.

#### 399-G:6 License and Registration Grant.

I. If the commissioner determines that the applicant meets the requirements of this chapter, then the commissioner shall issue a license and or registrations permitting the applicant to engage in the business of money transmission in accordance with the laws of this state.

II. Each license issued under the provisions of this chapter shall state the name and address of the principal office of the licensee. Each registration issued under the provisions of this chapter shall state the name and address of the authorized delegate location for which that registration is issued.

III. If a licensee is a person other than a natural person, the license issued to it shall entitle all officers, directors, members, partners, trustees, and employees of the licensee to engage in the business of money transmission; provided that one officer, director, member, partner, employee, or trustee of such person shall be designated in the license as the individual to be contacted for purposes of this chapter.

IV. If the licensee is a natural person, the license shall entitle all employees and authorized delegates of the licensee to engage in the business of money transmission.

V. A license or registration issued under this chapter shall not be transferable or assignable between persons without obtaining the approval of the commissioner before the assignment or transfer.

VI. Money transmitters, who sell or issue payment instruments or stored value, or receive money or monetary value for transmission to another location shall be liable to customers for the amount of money as well as any fees paid by the customer and received by the money transmitter, authorized delegate or person acting on his or her behalf, if the money fails to reach its intended recipient unless transmission to the recipient is prohibited by law.

**399-G:7 License Denial; Appeal.**

I. If the commissioner determines that the applicant fails to meet the requirements of this chapter, the commissioner shall immediately, in writing, notify the applicant of that determination.

II. Applicants may appeal a license denial in accordance with RSA 541-A and rules of the commissioner adopted thereunder.

III. Applicants may petition the department for a rehearing in accordance with RSA 541 if the decision in an appeal conducted pursuant to paragraph II affirms a denial of a license application.

**399-G:8 License or Registration Term; Renewal.**

I. Each license or registration shall remain in force until it has been surrendered, revoked, or suspended, or expires in accordance with the provisions of this chapter. Each license or registration shall expire on December 31 of each calendar year.

II. If a person holds a valid license or registration under this section and is in compliance with this chapter and the rules thereunder, such licensee may renew the license or registration by paying the required fee to the banking department on or before December 1 for the ensuing year that begins on January 1. Failure to renew the license or registration shall result in the license or registration terminating on December 31.

III. A renewal fee of \$500 for the principal office license and \$25 for each authorized delegate registration, up to a maximum annual fee of \$4,000, shall be submitted with the application for license renewal.

IV. No application for renewal shall be denied without reasonable cause and the right of appeal pursuant to RSA 541-A and RSA 541.

**399-G:9 License Posting.** It shall be unlawful to engage in the business of money transmission without a conspicuously posted license in the licensee's principal place of business within this state or a conspicuously posted registration in each of the licensee's authorized delegate offices within this state.

**399-G:10 Change in Name; Ownership; Location.**

I. No licensee shall conduct the business of a money transmitter under a trade or other name that is different from the name stated in its principal office license without immediately notifying the commissioner, who shall then amend the license and any registrations accordingly.

II. A licensee shall submit written notification to the department of the addition or deletion of a principal and shall provide the name and address of each new principal no later than 30 days after such change. Each new principal shall authorize the commissioner to conduct a background check. The commissioner shall investigate management and ownership changes including, but not limited to, each principal's qualifications and business history. The licensee shall disclose any injunction or administrative order that has been issued against the principal and whether the principal has been convicted of a misdemeanor involving the money transmission industry or any aspect of the money transmission business or convicted of any felony, prior to the commissioner's approval of such change.

III. Licensees shall provide written notice to the department of any change in location or closing of any office no later than 30 business days following the effective date of such change of location or closing. In the case of an emergency, as determined by the commissioner, a licensee may close a registered authorized delegate office and provide notice of the closure to the department within 2 business days. Failure to comply with the provisions of this paragraph shall be sufficient cause for license revocation or denial of license renewal applications.

IV. Persons licensed under this chapter are under a continuing obligation to update information on file with the commissioner. If any information filed with the commissioner becomes materially inaccurate, the licensee shall promptly submit to the commissioner an amendment to its application that will correct the information on file with the commissioner. An amendment shall be considered filed promptly if the amendment is filed within 30 days after the event that requires the filing of the amendment. Certain significant events as defined by rule shall be reported to the department in writing within 10 calendar days.

399-G:11 License Surrender.

I. A licensee who ceases to engage in the business of a money transmitter at any time during a license year for any cause, including but not limited to bankruptcy, license revocation, or voluntary dissolution, shall surrender such license and office registrations, if any, in person or by registered or certified mail to the commissioner within 15 calendar days of such cessation of business, and shall cause to be published in a newspaper of general circulation in the licensee's market area a notice to such effect. The commissioner shall adopt rules, in accordance with RSA 541-A, relative to such notice.

II. Withdrawal of the surrendered license and office registrations, if any, shall become effective 30 days after receipt by the commissioner or within such shorter period of time as the commissioner may determine, unless a revocation or suspension proceeding is pending when the license is surrendered or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the license is surrendered. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. The commissioner may nevertheless institute a revocation or suspension proceeding under RSA 399-G:18 within one year after withdrawal became effective and may enter a revocation or suspension order as of the last date on which the license was effective.

III. Failure to comply with the provisions of this section and rules adopted under this section shall be cause for denial of future license applications and the imposition of penalties under RSA 399-G:21.

399-G:12 Record Keeping.

I. The licensee shall maintain such records as will enable the department to determine whether the licensee's business is in compliance with the provisions of this chapter and the rules adopted pursuant to this chapter. Such records shall be maintained and made available for examination at the licensee's principal office or its authorized delegate location or the office of its New Hampshire agent for a period of at least 5 years or longer if the commissioner prescribes a period by rule. Licensees may maintain photocopies, microfilm, or microfiche copies of original documents.

II. Those licensees that maintain their files in another state are required to return the files to their principal New Hampshire office or the office of their New Hampshire agent for examination no later than 21 calendar days after being requested to do so by the department. Failure to provide files and documents shall subject a licensee to a fine of \$50 per day for each day after 21 days the files and documents are not produced. Failure to provide files and documents within 60 days after being requested to do so by the department, shall be sufficient cause for license revocation, suspension, or denial.

III. A licensee shall keep and use business records in such form and at such location as the commissioner shall by rule determine. The records shall enable the commissioner to determine whether the licensee is com-

plying with the provisions of this chapter, any rules adopted under it, and any other law, rule, or regulation applicable to the conduct of the business for which it is licensed under this chapter. The rules may contain provisions for records to be recorded, copied, or reproduced by any process which accurately reproduces or forms a durable medium for reproducing the original record or document, or in any other form or manner authorized by the commissioner. Nothing in this section shall be construed to permit any licensee to destroy original records or documents. Each licensee shall preserve all such business records for as long a period as the commissioner shall prescribe by rule.

#### 399-G:13 Examinations.

I. The department may examine the business affairs and records of any licensee or any other person, whether licensed or not, as it deems necessary to determine compliance with this chapter and the rules adopted pursuant to it. In determining compliance, the department may examine the books, accounts, records, files, and other documents or matters of any licensee or person. The department shall have the power to subpoena witnesses and administer oaths in any adjudicative proceedings, and to compel, by subpoena duces tecum, the production of all books, records, files, and other documents and materials relevant to its investigation.

II. For the purpose of discovering violations of this chapter, the banking department may examine, during business hours, the records of any licensee and of any person by whom any such loan is made, whether such person shall be licensed to act, or claim to act, as principal, agent, or other representative, or under, or without the authority of this chapter; and for that purpose, the banking department shall have access to the books, papers, records, files, and vaults of all such persons. The banking department shall also have authority to examine, under oath, all persons whose testimony it may require relative to such loans or business.

III. The affairs and records of every licensee shall be subject at any time to such periodic, special, regular, or other examination by the banking department with or without notice to the licensee. All books, papers, files, related material, and records of assets of the licensee shall be subject to the banking department's examination.

IV. Any agent of the department may make a thorough examination into the business affairs of each licensee and shall report any violations of law, rule, or standard business practice to the department.

V. The expense of examination shall be chargeable to and paid by the licensee. The procedure for such payment shall be the same as for payments by institutions for cost of examinations under RSA 383:11, except when the principal office of the licensee or person is located outside of this state and the department has determined that the examination must be conducted at that out-of-state location, the actual cost of travel, lodging, meals and other expenses of examination personnel employed in making examinations, shall be chargeable to and paid by such licensee or person in addition to the per diem charge for examination personnel set forth in RSA 383:11.

VI. The commissioner may, in his or her discretion, accept all or a part of a report of examination of a money transmitter, certified to by the regulatory supervisory official of another state. To avoid unnecessary duplication of examinations, the commissioner, insofar as he or she deems it practicable in administering this section, may cooperate with the regulators of other states, the Federal Trade Commission, other federal regulators, or their successors in conducting examinations and investigations.

VII. Every person being examined, and all of the officers, directors, employees, agents, and representatives of such person shall make freely available to the commissioner or his or her examiners, the accounts, records, documents, files, information, assets, and matters in their possession or control relating to the subject of the examination and shall facilitate the examination.

VIII. Upon receipt of a written report of examination, the licensee shall have 30 days or such additional period as the commissioner for good cause may allow, to review the report, recommend any changes, and set forth in writing the remedial course of action the licensee will pursue to correct any reported deficiencies outlined in the report.

IX. If requested by the person examined, within the period allowed in paragraph VIII, or if deemed advisable by the commissioner without such request, the commissioner shall hold a closed hearing relative to the report and shall not file the report in the department until after such closed hearing and issuance of his or her order thereon. If no such closed hearing has been requested or held, the examination report, with such modifications as the commissioner deems proper, shall be accepted by the commissioner and filed upon expiration of the review period provided for in paragraph VIII.

X. All reports pursuant to this section shall be privileged and exempt from the requirements of RSA 91-A. The comments and recommendations of the examiner shall also be exempt.

399-G:14 Annual Report.

I. Each licensee shall file, under oath, an annual report with the banking department on or before February 1 each year concerning operations for the preceding year or license period ending December 31 upon the form prescribed by the department.

II. A person who surrenders, withdraws, or does not renew a license shall file the annual report as required in paragraph I, notwithstanding the fact that he or she is not licensed on the date that the report is due.

III. Each licensee shall also file, under oath, its financial statement with the commissioner within 90 days from the date of its fiscal year end. The financial statement shall be prepared in accordance with generally accepted accounting principles with appropriate note disclosures. A money transmitter's financial statement shall include a balance sheet, income statement, statement of changes in owners' equity, a cash flow statement, and a statement of net worth. If the financial statement filed under this section is not audited, a certification statement shall be attached and signed by an authorized officer of the licensee. The certification statement shall state that the financial statement is true and accurate to the best of the officer's belief and knowledge.

IV. The department shall publish its analysis of the information required in the licensee's annual report as a part of the commissioner's annual report.

V. Any money transmitter failing to file either the annual report or the financial statement required by this section within the time prescribed may be required to pay to the banking department a penalty of \$25 for each calendar day the annual report or financial statement is overdue up to a maximum penalty of \$2,500 per report or statement.

VI. In addition to the annual report and financial statement, the banking department may require such additional regular or special reports as it may deem necessary to the proper supervision of licensees under this chapter.

VII. Any officer, owner, manager, or agent of any licensee and any person controlling or having a contract under which he or she has a right

to control such a licensee, whether exclusively or otherwise, and any person with executive authority over or in charge of any segment of such a licensee's affairs, shall reply promptly in writing, or in other designated form, to any written inquiry from the commissioner requesting a reply. The commissioner may require that any communication made to him or her under this section be verified.

**399-G:15 Money Laundering Reports.**

I. Licensees shall file with the commissioner copies of all reports required by federal currency reporting, record keeping, and suspicious transaction reporting requirements as set forth in 31 U.S.C. section 5313, 31 C.F.R. part 103, and other federal and state laws pertaining to money laundering with regards to money transmission transactions in this state.

II. The timely filing of a complete and accurate report required by paragraph I with the appropriate federal agency is compliance with the requirements of this section, unless the commissioner notifies the licensee that reports of this type are not being regularly and comprehensively transmitted by the federal agency to the commissioner.

**399-G:16 Advertising.** No licensee or other person shall advertise, print, display, publish, distribute, or broadcast, or permit to be advertised, printed, displayed, published, distributed, or broadcast in any manner whatsoever, any statement or representation with regard to the rates, terms, or conditions for money transmission under the provisions of this chapter which is false, misleading, or deceptive.

**399-G:17 Consumer Inquiries.**

I. Consumer complaints naming licensees under this chapter, which are filed in writing with the office of the commissioner, shall be forwarded via certified or registered mail to the licensee for response within 10 days of receipt by the department. Licensees shall, within 30 days after receipt of such complaint, send a written acknowledgment thereof to the consumer and the banking department. Not later than 60 days following receipt of such complaint, the licensee shall conduct an investigation of the complaint and either:

(a) Make appropriate corrections in the account of the consumer and transmit to the consumer and the banking department written notification of such corrections, including documentary evidence thereof; or

(b) Transmit a written explanation or clarification to the consumer and the banking department which sets forth, to the extent applicable, the reasons why the licensee believes its actions are correct, including copies of documentary evidence thereof.

II. A licensee who fails to respond to consumer complaints as required by this section within the time prescribed shall pay to the commissioner the sum of \$50 for each day such response is overdue. For purposes of this section, the date of transmission shall be the date such response is received by the commissioner.

III. (a) Licensees which, because of extenuating circumstances beyond the control of the licensee, are unable to comply with the time frames prescribed in this section, may make written request to the commissioner for a waiver of such time frames. Waivers shall not be granted or considered unless the request for the waiver:

(1) Is received by the banking department within 50 days following the licensee's receipt of the complaint;

(2) Specifies the reason for the request; and

(3) Specifies a date certain by which the licensee shall comply with the provisions of this section.

(b) Requests for waivers shall be either granted or denied within 5 days of receipt by the banking department.

**399-G:18 License Revocation; Suspension.**

I. The commissioner may issue an order requiring a person to whom any license has been granted or any person under the commissioner's jurisdiction to show cause why the license should not be revoked, suspended, or penalties imposed, or both, for violations of this chapter. The order shall give reasonable notice of the opportunity for a hearing and shall state the reasons for the issuance of the order. The commissioner may by order summarily postpone or suspend any license or application pending final determination of any order to show cause, or other order, or of any other proceeding under this section, provided the commissioner finds that the public interest would be irreparably harmed by delay in issuing such order. Upon the entry of the order, the commissioner shall promptly notify the respondent, applicant, or licensee that the order has been entered and of the reasons for the order and that within 10 calendar days after receipt of a written request the matter will be scheduled for hearing. Valid delivery of such order shall be by hand or certified mail at the last known principal office of the licensee, or respondent, to an officer, director, 5 percent or more owner, member, partner, or legal representative of the licensee or respondent. If the person to whom an order to show cause or other order is issued fails to request a hearing within 30 calendar days of receipt or valid delivery of the order and no hearing is ordered by the commissioner, then such person shall be deemed in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown. A hearing, if requested shall be scheduled not later than 10 calendar days after the written request for such hearing is received by the commissioner, after which and within 20 calendar days from the date of the hearing the commissioner shall enter an order making such disposition of the matter as the facts require. If the licensee or respondent fails to request a hearing within 30 calendar days of receipt or valid delivery of such order or fails to appear at a hearing after being duly notified, or cannot be located after a reasonable search, such person shall be deemed in default and the proceeding may be decided against the person upon consideration of the order to show cause or other order, the allegations of which may be deemed to be true. The commissioner may by order, upon due notice and opportunity for hearing, assess penalties or deny, suspend, or revoke a license or application if it is in the public interest and the applicant, respondent, or licensee, any partner, officer, member, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the applicant, respondent, or licensee:

- (a) Has violated any provision of this chapter or rules thereunder;
- (b) Has not met the standards established in this chapter;
- (c) Has filed an application for licensing which as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;
- (d) Has made a false or misleading statement to the commissioner or in any reports to the commissioner;
- (e) Has made fraudulent misrepresentations, has circumvented or concealed, through whatever subterfuge or device, any of the material particulars or the nature thereof required to be stated or furnished to a consumer under the provisions of this chapter;

(f) Is the subject of an order entered within the past 5 years by this state, any other state, or federal regulator denying, suspending, or revoking licenses or registration;

(g) Is permanently, preliminarily, or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of money transmission, lending, or collection activities;

(h) Is not qualified on the basis of such factors as experience, knowledge, and financial integrity;

(i) Has engaged in dishonest or unethical practices in the conduct of the business of money transmission;

(j) Has violated applicable federal laws or rules thereunder;

(k) Has made an unsworn falsification under RSA 641:3 to the commissioner; or

(l) For other good cause shown.

II. The banking department may, upon due notice and opportunity for a hearing, suspend any license for a period not exceeding 30 days, pending investigation by the banking department.

III. Any license revocation, license suspension, or unfavorable action by the banking department on a license shall further comply with the provisions of RSA 541-A:30.

IV. The banking department may take action for immediate suspension of a license, pursuant to RSA 541-A:30, III.

V. If a licensee is a partnership, association, corporation, or entity however organized, it shall be sufficient cause for the suspension or revocation of a license that any officer, director, or trustee of a licensed association or corporation or any member of a licensed partnership has so acted or failed to act in behalf of said licensee as would be cause for suspending or revoking a license to such party as an individual.

VI. If the commissioner finds that any licensee or applicant for license is no longer in existence or has ceased to do business as a money transmitter, or cannot be located after reasonable search, the commissioner may by order revoke the license, impose penalties, or deny the application. The commissioner may deem abandoned and withdraw any application for licensure made pursuant to this chapter, if any applicant fails to respond in writing within 180 calendar days to a written request from the commissioner requesting a response. Such request shall be sent via certified mail to the last known address of the applicant that is on file with the commissioner.

#### 399-G:19 Violations.

I. The department may issue and serve upon any licensee or person over whom it has jurisdiction a complaint setting forth charges whenever the department is of the opinion that the licensee or person is violating or has violated any provision of this chapter or any rule or order under this chapter.

II. The department may issue a cease and desist order against any person who it has reasonable cause to believe is in violation of the provisions of this chapter or any rule or order under this chapter. Delivery of such order shall be by hand or registered mail at the principal office of the person. The order shall be calculated to give reasonable notice of the rights of the person to request a hearing on the order and shall state the reasons for the entry of the order. A hearing shall be held not later than 10 days after the request for such hearing is received by the commissioner. Within 20 days of the date of the hearing the commissioner shall issue a further order vacating the cease and desist order or making it permanent. All hearings shall comply with RSA 541-A. If the per-



son to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, such person shall be deemed in default, and the proceeding may be determined against him or her upon consideration of the cease and desist order, the allegations of which may be deemed to be true. If the person to whom a cease and desist order is issued fails to request a hearing within 30 calendar days of receipt of such order, then such person shall likewise be deemed in default, and the order shall, on the thirty-first day, become permanent, and shall remain in full force and effect until and unless later modified or vacated by the commissioner, for good cause shown.

399-G:20 Administration by Commissioner; Rulemaking.

I. The commissioner shall administer and enforce the provisions of this chapter.

II. Pursuant to RSA 541-A, the commissioner may adopt such rules as he or she deems necessary to the administration and enforcement of this chapter. Such rules shall be consistent with the provisions of this chapter, and may include, but shall not be limited to, the following:

(a) The application form for licensees required under RSA 399-G:5.

(b) The form of license issued to licensees under RSA 399-G:6.

(c) Annual reports required by RSA 399-G:14.

(d) Personal disclosure statements to meet the requirements of RSA 399-G:5.

(e) Fees to be charged to cover the reasonable costs of copying documents and producing reports.

III. The commissioner may prepare, alter, or withdraw such forms as are necessary to comply with the provisions of this title.

IV. The commissioner may issue, amend, or rescind such orders as are reasonably necessary to carry out the provisions of this chapter.

V. The commissioner may, for good cause shown, abate all or a portion of delinquency penalties assessed under this chapter.

VI. All actions taken by the commissioner pursuant to this chapter shall be taken only when the commissioner finds such action necessary or appropriate to the public interest or for the protection of consumers and consistent with the provisions of this chapter.

VII. In adopting rules, preparing forms, setting standards, and in performing examinations, investigations, and other regulatory functions authorized by the provisions of this chapter, the commissioner may cooperate, and share information pursuant to confidentiality agreements, with regulators in this state and with regulators in other states and with federal regulators, in order to implement the policy of this chapter in an efficient and effective manner and to achieve maximum uniformity in the form and content of applications, reports, and requirements for money transmitters, where practicable.

399-G:21 Penalty.

I. Any person who violates any provision of this chapter shall be guilty of a misdemeanor for each violation if a natural person, or guilty of a felony for each violation if any other person.

II. Any person who knowingly violates any rule or order of the commissioner may, upon notice and opportunity for hearing, except where another penalty is expressly provided, be subject to license suspension or revocation, or imposition of an administrative fine not to exceed \$2,500 for each violation in lieu of or in addition to suspension or revocation.

III. Any person who negligently violates any rule or order of the commissioner may, upon notice and opportunity for hearing, except

where another penalty is expressly provided, be subject to license suspension, revocation, or denial, including the forfeiture of any application fee, or the imposition of an administrative fine not to exceed \$1,500 for each violation, in lieu of or in addition to suspension or revocation.

IV. Any person who, either knowingly or negligently, violates any provision of this chapter may, upon notice and opportunity for hearing, and in addition to any such other penalty provided for by law, be subject to license suspension, revocation or denial, including forfeiture of any application fee, or an administrative fine not to exceed \$2,500, or both. An administrative action or fine may be imposed in addition to any criminal or civil penalties imposed.

V. Every person who directly or indirectly controls a person liable under this section, every partner, principal executive officer, or director of such person, every person occupying a similar status or performing a similar function, every employee of such person who materially aids in the act constituting the violation, and every licensee or person acting as a common law agent who materially aids in the acts constituting the violation, either knowingly or negligently, may, upon notice and opportunity for hearing, and in addition to any other penalty provided for by law, be subject to license suspension, revocation, or denial, including the forfeiture of any application fee, or the imposition of an administrative fine not to exceed \$2,500, or both. An administrative action or fine may be imposed in addition to any criminal or civil penalties imposed. No person shall be liable under this paragraph who shall sustain the burden of proof that such person did not know, and in the exercise of reasonable care could not have known, of the existence of facts by reason of which the liability is alleged to exist.

#### 399-G:22 Records and Filings.

I. A document is filed when it is received by the commissioner. If any filing deadline date falls on a weekend or on a New Hampshire state or federal legal holiday, the due date shall be automatically extended to the next business day following such weekend or holiday.

II. Electronic filings, when received by the commissioner, are deemed filed, are prima facie evidence that a filing has been duly authorized and made by the signatory on the application or document, are admissible in any civil or administrative proceeding under this chapter, and are admissible in evidence in accordance with the rules of superior court in any action brought by the attorney general under this chapter.

III. A licensee may maintain its records in electronic format if, upon request, the licensee provides the commissioner with:

(a) A full explanation of the programming of any data storage or communications systems in use; and

(b) Information from any books, records, electronic data processing systems, computers, or any other information storage system in the form requested by the commissioner.

#### 36 Definitions. Amend RSA 399-A:1, X to read as follows:

X. "Payday loan" means a small, short-maturity loan on security, ***regardless of cancel ability under Regulation E and regardless of any other law that may govern this transaction, in the form, of:***

(a) A check;

(b) Any form of assignment of an interest in the account of an individual or individuals at a depository institution; ~~or~~

(c) Any form of assignment of income payable to an individual or individuals; ***or***

***(d) Any payment authorization that allows a person to debit the account of an individual or individuals at a depository institution.***

37 Banking Department; Positions Established. The following classified positions are hereby established in the banking department:

I. One bank examiner trainee, labor grade 21.

II. One program specialist I, labor grade 19.

III. One paralegal II, labor grade 19.

38 Effective Date.

I. Section 35 of this act shall take effect January 1, 2007.

II. The remainder of this act shall take effect 60 days after its passage.

**2006-1885s**

### AMENDED ANALYSIS

This bill makes certain changes relative to licenses for first mortgage bankers, brokers, pawnbrokers, and money lenders.

This bill requires the banking commission to license money transmitters.

This bill was requested by the banking department.

SENATOR GOTTESMAN: Thank you, Mr. President. I move House Bill 1126 ought to pass with amendment. This bill will require that all money transmitters in the state of New Hampshire be licensed. Currently, New Hampshire is one of only five states that do not license money transmitters. Passage of this bill will close a loophole that accommodates terrorist financing. I assume it accommodates anti-terrorist financing. The committee heard testimony from the Attorney General, and also received a letter from U.S. Attorney Tom Colantuono, supporting this bill and conveying the importance of passing it to insure that New Hampshire does not become a haven for funneling money to terrorists. Other sections of this bill make various technical changes and corrections to the banking statutes. It will also authorize the Banking Department to conduct background checks on their employees and applicants. The Banks and Insurance Committee recommends that this legislation be adopted as amended and asks your support. Thank you.

### **Amendment adopted.**

Senator Flanders offered a floor amendment.

Sen. Flanders, Dist. 7

**May 1, 2006**

**2006-2110s**

**09/10**

### **Floor Amendment to HB 1126**

Amend the bill by replacing section 38 with the following:

38 Effective Date. This act shall take effect 60 days after its passage.

SENATOR FLANDERS: Mr. President, floor amendment 2110s.

SENATOR GATSAS (In the Chair): Floor amendment 2110s has been proposed. You may speak to the amendment as it's being passed out.

SENATOR FLANDERS: All it does is change the effective date so that we can put it into effect quicker than the original bill. The act shall take effect sixty days after its passage, and they feel that they'll have time enough to...and this is suggested by the Banking Department.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

Senator Foster (Rule #42) on HB 1126.

**HB 1192**, relative to property and casualty insurance. Banks and Insurance Committee. Ought to pass with amendment, Vote 6-0. Senator Roberge for the committee.

**Banks and Insurance**

**April 18, 2006**

**2006-1865s**

**01/03**

### **Amendment to HB 1192**

Amend RSA 416-A:8-a, I as inserted by section 10 of the bill by replacing it with the following:

I. Compensation by a title insurance company of an attorney who is licensed to practice for services actually rendered in connection with a real estate transaction, regardless of whether such attorney represents a client in such real estate transaction.

**2006-1865s**

### **AMENDED ANALYSIS**

This bill makes certain changes in the insurance laws relative to property and casualty insurance.

SENATOR ROBERGE: Thank you, Mr. President. I move House Bill 1751 ought to pass. This bill will allow the Commissioner of the Department of Labor to assess fines retroactively for employers...no, which one?

SENATOR GATSAS (In the Chair): 1192.

SENATOR ROBERGE: Thank you, Mr. President. I move House Bill 1192 ought to pass with amendment. This bill makes certain that changes in the insurance laws relative to property and casualty insurance. This bill was a request of the Insurance Department. The Committee amended the bill to correct language which would have inadvertently prevented attorneys who write title insurance policies from collecting hourly fees for services rendered. The intent of the original language was to prevent payment to non-licensed individuals. The Banks and Insurance Committee asks for your support on a motion of ought to pass as amended. Thank you.

**Amendment adopted.**

SENATOR FLANDERS: I have no amendment on this bill.

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

Senator Foster (Rule #42) on HB 1192.

Senator Gottesman (Rule #42) on HB 1192.

**HB 1194**, relative to job protection for firefighters, rescue workers, and emergency medical personnel. Banks and Insurance Committee. Ought to pass, Vote 6-0. Senator Barnes for the committee.

SENATOR BARNES: Thank you, Mr. President. I move House Bill 1194 ought to pass. This bill gives firefighters, rescue workers, and emergency medical personnel the right to take leave without pay from a place of employment when mobilized after the Governor has declared a state of emergency, without having to use or exhaust their vacation or other accrued leave. They may choose to take vacation or other accrued leave if they wish, but, their employer cannot require them to do so. The Banks and Insurance Committee unanimously asks your support on this piece of legislation.

Senator Flanders offered a floor amendment.

Sen. Flanders, Dist. 7

May 2, 2006

2006-2156s

10/04

### Floor Amendment to HB 1194

Amend the title of the bill by replacing it with the following:

AN ACT relative to job protection for firefighters, rescue workers, and emergency medical personnel, and relative to health insurance claim review and the qualifications and responsibilities of a medical director.

Amend the bill by replacing all after section 1 with the following:

2 Accident and Health Insurance; Minimum Standards for Claim Review. Amend RSA 415-A:4-a, I(c) to read as follows:

(c) The notification of a claim denial, ***including the denial of a pre-service claim***, shall be communicated in writing or by electronic means and shall include:

(1) The specific reason or reasons for the determination and shall refer to ***and restate*** the specific provision of the policy or plan on which the determination is based;

(2) A statement of the claimant's or the representative of the claimant's right to access the internal grievance process and the process for obtaining external review. ~~[The notification shall also include a written explanation of any claim denial and the relevant clinical rationale used to make the claim denial.];~~

(3) If the claim denial is based upon a determination that the claim is experimental or investigational or not medically necessary or appropriate, ~~[the licensee shall include with the notification]~~ ***or if the claim denial is otherwise based, in whole or in part, on medical judgment:***

(A) The name and credentials of the carrier or other licensed entity~~[-]~~ ***and*** the medical director, including board status and the state or states where the ~~[person]~~ ***medical director*** is currently licensed. If the person making the claim denial is not the medical director but a designee, then the credentials, board status, and state or states of current license shall also be provided for that person~~[- Nothing in this section shall be construed to require a carrier or other licensed entity to provide proprietary information protected by third party contracts];~~

(B) ***A statement that the medical director, or designee, has reviewed the available medical documentation, notes of the attending physician, test results, and all other relevant medical records of the claimant; and***

(C) ***An explanation of the scientific or clinical rationale for the determination. This explanation shall recite the terms of the plan or the policy or of any clinical review criteria or any***

***internal rule, guideline, protocol, or other similar provision that was relied upon in making the claim denial and shall clearly show, by reference to the claimant's medical records, how these provisions apply to the claimant's specific medical circumstances;***

~~[(3)]~~ (4) If an internal rule, guideline, protocol, or other similar provision was relied upon in making the benefit determination, ~~[a reference to the specific rule, guideline, protocol, or other similar provision; and]~~ a statement that such ~~[a]~~ rule, guideline, protocol, or other similar provision was relied upon in making the claim denial and ~~[that]~~ a copy of such rule, guideline, protocol, or other provision ~~[will be provided free of charge to the claimant or claimant's representative upon request];~~

~~[(4) If the claim denial is based on a medical necessity or experimental treatment or other similar exclusion or limit, an explanation of the scientific or clinical judgment for the determination, applying the terms of the plan or the policy to the claimant's medical circumstances;]~~

(5) If clinical review criteria ~~[was]~~ ***were*** relied upon in making the benefit determination, ~~[a reference to the specific clinical review criteria],~~ a statement that such clinical review criteria ~~[was]~~ ***were*** relied upon in making the claim denial~~;~~ and a copy of the clinical review criteria ~~[shall be provided free of charge to the claimant or the claimant's representative, upon request].~~ ~~[If a copy of the clinical review criteria is requested,]~~ The clinical review criteria shall be accompanied by the following notice: "The materials provided to you are criteria used by this plan to authorize, modify, or deny care for persons with similar illnesses or conditions. Specific care and treatment may vary depending on individual need and the benefits covered under your contract;" ~~[and]~~

(6) A description of the plan's grievance procedures and the time limits applicable to such procedures. In the case of a denial of a benefit concerning a claim involving urgent care or in the case of a denial of a claim related to continuation of an ongoing course of treatment for a person who has received emergency services, but who has not been discharged from a facility, a description of the expedited review applicable to such a claim shall be included in the determination. For all other claim benefit determinations, a description of the grievance process shall be specifically described in the determination.

3 Accident and Health Insurance; Appeal Procedure. Amend RSA 415-A:4-b, V(a) to read as follows:

(a) The carrier or other licensed entity shall provide a claimant with a written determination of the appeal that shall include:

(1) The specific reason or reasons for the determination, including reference to ***and a statement of the specific provision[, rule, protocol, or guideline] of the policy or plan*** on which the determination is based;

(2) ~~[A statement that the rule, protocol, or guideline governing the appeal will be provided without charge to the claimant upon request;]~~ ***If the determination is based upon a finding that the claim is experimental or investigational or not medically necessary or appropriate, or if the determination is otherwise based, in whole or in part, on medical judgment:***

***(A) The name and credentials of the person reviewing the grievance, including board status and the state or states where the person is currently licensed;***

***(B) A statement that the person reviewing the grievance has reviewed the available medical documentation, notes of the attending physician, test results, and all other relevant medical records of the claimant; and***

***(C) An explanation of the scientific or clinical rationale for the determination. This explanation shall recite the terms of the plan or the policy or of any clinical review criteria or any internal rule, guideline, protocol, or other similar provision that was relied upon in making the claim denial and shall clearly show, by reference to the claimant's medical records, how these provisions apply to the claimant's specific medical circumstance;***

(3) A statement describing all other dispute resolution options available to the claimant, including, but not limited to other options for internal review and options for external review, and options for bringing a legal action;

(4) A statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits;

(5) If an internal rule, guideline, protocol, or other similar ~~[criterion]~~ **provision** was relied upon in making the claim denial, ~~[either the specific rule, guideline, protocol, or other similar criterion; or]~~ a statement that such rule, guideline, protocol, or other similar ~~[criterion]~~ **provision** was relied upon in making the claim denial[;] and ~~[that] a copy of the rule, guideline, protocol, or other similar [criterion will be provided free of charge to the claimant upon request]~~ **provision**;

(6) ~~[If the claim denial is based on a medical necessity or experimental treatment or similar exclusion or limit, either an explanation of the scientific or clinical judgment for the denial, applying the terms of the plan to the claimant's medical circumstances, or a statement that such explanation will be provided free of charge upon request;]~~ ***If clinical review criteria were relied upon in making the benefit determination, a statement that such clinical review criteria were relied upon in making the benefit determination and a copy of the clinical review criteria. The clinical review criteria shall be accompanied by the following notice: "The materials provided to you are criteria used by this plan to authorize, modify, or deny care for persons with similar illnesses or conditions. Specific care and treatment may vary depending on individual need and the benefits covered under your contract;"***

(7) The following statement: "You and your plan may have other voluntary alternative dispute resolution options, such as mediation. One way to find out what may be available is to contact your local U.S. Department of Labor Office and your state insurance regulatory agency;" and

(8) A statement describing the claimant's right to contact the insurance commissioner's office for assistance which shall include a toll-free telephone number and address of the commissioner.

4 Licensure of Medical Utilization Review Entities; Notification of Claim Denials. Amend RSA 420-E:4, V to read as follows:

V. The manner and content of notification of claim benefit determinations shall be as follows:

(a) The licensee shall notify the claimant or claimant's representative in writing or electronically of the claim determination.

***(b) If the claim benefit determination is a claim denial, the notice shall include:***

~~(1) The [notification shall state the]~~ specific reason or reasons for the determination and shall refer to **and restate** the specific provision of the policy or plan on which the determination is based.

~~[(c) The notification shall include]~~ (2) A statement of the claimant's right or the right of the claimant's representative to access the internal

grievance process and the process for obtaining external review. ~~[The notification shall also include a written explanation of any claim denial and the relevant clinical rationale used to make the claim denial.]~~

(3) If the claim denial is based upon a determination that the claim is experimental or investigational or not medically necessary or appropriate, ~~[the licensee shall include with the notification]~~ **or if the claim denial is otherwise based, in whole or in part, on medical judgment:**

(A) The name and credentials of the carrier or other licensed entity~~;~~ **and** the medical director, including board status and the state or states where the ~~[person]~~ **medical director** is currently licensed. If the person making the claim denial is not the medical director but a designee, then the credentials, board status, and state or states of current license shall also be provided for that person~~[-Nothing in this section shall be construed to require a carrier or other licensed entity to provide proprietary information protected by third party contracts.];~~

**(B) A statement that the medical director, or designee, has reviewed the available medical documentation, notes of the attending physician, test results, and all other relevant medical records of the claimant; and**

**(C) An explanation of the scientific or clinical rationale for the determination. This explanation shall recite the terms of the plan or the policy or of any clinical review criteria or any internal rule, guideline, protocol, or other similar provision that was relied upon in making the claim denial and shall clearly show, by reference to the claimant's medical records, how these provisions apply to the claimant's specific medical circumstances;**

~~[(d)]~~ (4) If an internal rule, guideline, protocol, or other similar provision was relied upon in making the benefit determination, ~~[the determination shall reference the specific rule, guideline, protocol, or other similar provision; and shall include]~~ a statement that such ~~[a]~~ rule, guideline, protocol, or other similar provision was relied upon in making the claim denial and ~~[that]~~ a copy of such rule, guideline, protocol, or other provision ~~[will be provided free of charge to the claimant or claimant's representative upon request.];~~

~~[(e)]~~ If the claim denial is based on a medical necessity or experimental treatment or other similar exclusion or limit, the determination shall include an explanation of the scientific or clinical judgment for the determination, applying the terms of the plan or the policy to the claimant's medical circumstances.

~~[(f)]~~ (5) If clinical review criteria ~~[was]~~ **were** relied upon in making the benefit determination, ~~[a reference to the specific clinical review criteria;]~~ a statement that such clinical review criteria ~~[was]~~ **were** relied upon in making the claim denial~~;~~ and a copy of the clinical review criteria ~~[shall be provided free of charge to the claimant or claimant's representative, upon request. Any disclosure of].~~ **The clinical review criteria shall be accompanied by the following notice: "The materials provided to you are criteria used by this plan to authorize, modify, or deny care for persons with similar illnesses or conditions. Specific care and treatment may vary depending on individual need and the benefits covered under your contract[-];"**

~~[(g)]~~ (6) **A description of the plan's grievance procedures and the time limits applicable to such procedures.** In the case of a denial of a benefit concerning a claim involving urgent care or in the case of a denial of a claim related to continuation of an ongoing course of treatment for a person who has received emergency services, but who



has not been discharged from a facility, a description of the expedited review applicable to such a claim shall be included in the determination. For all other claim benefit determinations, a description of the grievance process shall be specifically described in the determination.

5 Utilization Review; Responsibilities of Medical Director. Amend RSA 420-J:6, V to read as follows:

V. Each health carrier that conducts utilization review shall employ a medical director who shall ***be licensed to practice medicine under RSA 329 and who shall*** have responsibility for all utilization review techniques and methods and their administration and implementation ***and for ensuring compliance with all statutory and regulatory standards for the internal grievance process for reviewing claim denials, including denials of pre-service claims. The medical director shall ensure that any decision not to authorize coverage that is based upon a determination that the claim is experimental or investigational or not medically necessary or appropriate or that is otherwise based, in whole or in part, on medical judgment is only made after review of the available medical documentation, notes of the attending physician, test results, and all other relevant medical records of the claimant by a person who possesses the education, training, and expertise to evaluate the medical condition of the claimant.*** Nothing in this section shall be construed to preclude a medical director from consulting with or relying on the advice of a physician licensed in this state or any other state. Nothing in this section shall be construed as creating any civil liability [to] ***of the medical director for the medical director's alleged negligent performance of the aforementioned responsibilities for utilization review.***

6 Utilization Review; Responsibilities of Medical Director. Amend RSA 420-E:2-a to read as follows:

420-E:2-a Medical Director. Every medical utilization review entity licensed by the department under this chapter shall employ a medical director licensed under RSA 329 or, in the case of a dental utilization review entity, a dentist licensed under RSA 317-A. ***The medical director shall have responsibility for all utilization review techniques and methods and their administration and implementation and for ensuring compliance with all statutory and regulatory standards for the internal grievance process for reviewing claim denials, including denials of pre-service claims. The medical director shall ensure that any decision not to authorize coverage that is based upon a determination that the claim is experimental or investigational or not medically necessary or appropriate or that is otherwise based, in whole or in part, on medical judgment is only made after review of the available medical documentation, notes of the attending health care provider, test results, and all other relevant medical records of the claimant by a person who possesses the education, training, and expertise to evaluate the medical condition of the claimant. Nothing in this section shall be construed to preclude a medical director from consulting with or relying on the advice of a physician licensed in this state or any other state. Nothing in this section shall be construed as creating any civil liability of the medical director for the medical director's alleged negligent performance of the aforementioned responsibilities for utilization review.***

7 Effective Date.

I. Section 1 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

**2006-2156s****AMENDED ANALYSIS**

This bill gives firefighters, rescue workers, and emergency medical personnel the right to take leave without pay from a place of employment when mobilized after the governor has declared a state of emergency unless certified as essential to an employer's emergency relief efforts.

This bill also clarifies the procedures for medical insurance claim denials, and clarifies the qualifications and responsibilities of a medical director employed for the purposes of utilization review.

SENATOR FLANDERS: Floor amendment, I believe it's 2034s. Senate Bill 230 passed the Senate with concerns to the process where managed care health insurers review, the clinical necessity and appropriateness of healthcare services. This process is known as "utilization review". Senate Bill 230 did two things.

SENATOR GATSAS (In the Chair): Senator what amendment are you reading from? What is the number in the corner?

SENATOR FLANDERS: Let me see. It should be...yeah, 1194, that's the one. I apologize, but we had it on one bill, then we changed it to another bill, so I'm reading from. It establishes requirements for certain medical directors oversight of the utilization review function and establishes requirements of denial notices to cover **TAPE INAUDIBLE**. The House found the bill inexpedient to legislate because Senate Bill 230 stated that the Medical Director would have to personally make all utilization review decisions which is impossible. The House also did not agree with the denial notices and therefore, they did, they voted ITL. What we have done is to send this back to the Insurance Department. They have rewritten it, which we think is going to satisfy the House members in the Committee of Conference. And this amendment will do exactly what we passed on Senate Bill 230. I ask your support for this amendment because it's an important bill, and we think we have done it right the second time. Thank you.

**Recess.**

**Out of recess.**

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

Senator Martel is in favor of the floor amendment #2156 on HB 1194.

**HB 1278**, increasing the fine for violating certain laws relative to labor. Banks and Insurance Committee. Ought to pass, Vote 5-0, Senator Flanders for the committee.

SENATOR FLANDERS: Thank you, Mr. President. I move House Bill 1278 ought to pass. This bill increases the fine for violating certain labor laws that protect the jobs of citizens from \$1,000 to \$2,500 per day. These fines have not been increased in approximately fifteen years. This change will make the fine comparable to other fines charged by the Department of Labor. It is also thought that this increase will help to

deter certain employers who have been repeatedly breaking the law. The Banks and Insurance Committee recommends that this legislation be adopted and asks for your support. Thank you.

**Adopted.**

**Ordered to third reading.**

**HB 1478**, relative to penalties for employers who give false or incomplete required information about employees to the department of employment security and establishing an amnesty period for certain unpaid contributions. Banks and Insurance Committee. Ought to pass, Vote 5-0. Senator Foster for the committee.

SENATOR FOSTER: Thank you, Mr. President. I move HB 1478 ought to pass. This bill changes penalties for employers who give false or incomplete required information about employees to the Department of Employment Security. It will allow the Department to fine the employer \$25 per employee for every day that the employee's not reported correctly. This will eliminated the current situation which is actually advantageous for employers to break the law because there exists no fine or penalty for doing so. The bill also establishes an amnesty period so that employers who are in violation of the law can have the opportunity to pay whatever back taxes they owe. The Banks and Insurance Committee recommends that this legislation be adopted and asks for your support. Thank you.

**Adopted.**

**Ordered to third reading.**

**HB 1570**, relative to health insurance coverage for part-time college students. Banks and Insurance Committee. Interim Study, Vote 5-0. Senator Barnes for the committee.

### **MOTION TO TABLE**

Senator Barnes moved to have HB 1570 laid on the table.

**Adopted.**

### **LAID ON THE TABLE**

**HB 1570**, relative to health insurance coverage for part-time college students.

**HB 1588**, relative to unemployment compensation requirements for governmental and non-profit employers. Banks and Insurance Committee. Ought to pass, Vote 4-0. Senator Barnes for the committee.

SENATOR BARNES: Thank you, Mr. President. I move House Bill 1588 ought to pass This bill was requested by the Department of Employment Security and makes various changes to the unemployment compensation requirements for governmental and non-profit employers. These changes were approved unanimously by the Unemployment Advisory Council which advises the Department of Employment Security on legislative matters. The bill changes the law to include longevity, stay, retention, attendance or similar payments as wages. It more precisely defines the term "most recent employer", and redefines the term "date", regarding when the employee performed services for the employer. The Banks and Insurance Committee unanimously recommends that you folks help us and pass this piece of legislation.

**Adopted.**

**Ordered to third reading.**

**HB 1751**, relative to penalties for failure to have workers' compensation coverage. Banks and Insurance Committee. Ought to pass, Vote 4-0. Senator Barnes for the committee.

SENATOR BARNES: Thank you, Mr. President. I move House Bill 1751 ought to pass. This bill will allow the Commissioner of the Department of Labor to assess fines retroactively for employers who do have workers' compensation coverage. Currently, fines can only be applied from the date the employer is caught. This creates a situation where it is advantageous for the employer not to purchase the coverage until the day they are caught. Allowing the fines to be applied retroactively will rectify this situation. The Banks and Insurance Committee recommends that this legislation be adopted and asks for your support, and thank you very much.

Senator Gallus offered a floor amendment.

Sen. Gallus, Dist. 1

**April 24, 2006**

**2006-1996s**

**06/09**

### **Floor Amendment to HB 1751**

Amend the title of the bill by replacing it with the following:

AN ACT relative to penalties for failure to have workers' compensation coverage and relative to eligibility for unemployment benefits.

Amend the bill by replacing all after section 1 with the following:

2 Total and Partial Unemployment. Amend RSA 282-A:14, III as inserted by section 2 of the bill by inserting after subparagraph (b) the following new subparagraph:

(c) When an individual's regular weekly earnings equal or exceed 130 percent of the individual's maximum weekly benefit amount, the commissioner may for good cause, in accordance with the rules of the commissioner, extend the number of weeks to which the individual's wages are applied, thereby applying wages of less than 130 percent of such individual's maximum weekly benefit amount to each week for which the individual has claimed benefits.

3 Effective Date.

I. Section 1 of this act shall take effect January 1, 2007.

II. The remainder of this act shall take effect upon its passage.

**2006-1996s**

### **AMENDED ANALYSIS**

This bill allows the commissioner of labor to assess a civil penalty for each day an employer does not have workers' compensation coverage.

This bill also allows wages to be applied to additional weeks to allow receipt of partial or total unemployment benefits by a claimant who would otherwise be ineligible.

SENATOR GALLUS: Thank you very much, Mr. President. I would like to introduce floor amendment 1996 and I'd like to speak to that as we hand it out.

SENATOR GATSAS (In the Chair): Floor amendment 1996s has been proposed. You may speak to it as it's being passed out.

SENATOR GALLUS: Thank you. At the request of the Department of Employment Security, I have introduced this amendment. It basically

allows recently unemployed workers to unemployment benefits, who otherwise would be ineligible prior to using up accumulated vacation time. This certainly is a very helpful thing for many of the north country mill workers that are out of work. It is a very crucial time in their lives, and allows them to start collecting from day one, rather than waiting for whatever accumulated vacation time they might have to run out prior to collecting unemployment benefits. It can be used anywhere in the state, but it's very important in the north country at this particular time, and I ask you all for your support of floor amendment 1996s. Thank you.

**Recess.**

**Out of recess.**

### **PARLIAMENTARY INQUIRY**

SENATOR CLEGG: Mr. President, parliamentary. Is it okay to move to table the whole bill?

SENATOR GATSAS (In the Chair): We have a motion to table.

### **MOTION TO TABLE**

Senator Clegg moved to have HB 1751 laid on the table.

**Adopted.**

### **LAI D ON THE TABLE**

**HB 1751**, relative to penalties for failure to have workers' compensation coverage.

**HB 1752**, requiring notice regarding the classifications of employee and independent contractor. Banks and Insurance Committee. Ought to pass, Vote 3-0. Senator Barnes for the committee.

### **POINT OF ORDER**

SENATOR BARNES: Thank you, Mr. President. Point of order. Is this the last bill we're doing today?

SENATOR GATSAS (In the Chair): Senator, we're going to finish up with the Capital Budget, and that will be the last bill we'll have today.

SENATOR BARNES: Thank you, Mr. President.

SENATOR GATSAS (In the Chair): You're welcome.

SENATOR BARNES: I move House Bill 1752 ought to pass. This bill requires that information about the classification of workers as employees or independent contractors be posted in every place of employment. Independent contractors are not entitled to the same workers' compensation protections as employees. Posting a notice with this information will help to insure that everyone understands their worker classification and the consequences of it. The Banks and Insurance Committee recommends that this legislation be adopted and asks for your support, and we thank you very much.

Senator Clegg offered a floor amendment.

Sen. Clegg, Dist. 14

**May 3, 2006**  
**2006-2149s**  
**06/09**

### **Floor Amendment to HB 1752**

Amend the title of the bill by replacing it with the following:

AN ACT requiring notice regarding the classifications of employee and independent contractor and relative to the definition of employee and clarifying the criteria for exempting workers from employee status.

Amend the bill by replacing all after section 1 with the following:

2 Procuring Employment; Imposition of Conditions; Definition of Employee Changed. RSA 275:4, II is repealed and reenacted to read as follows:

II. In this subdivision any person who performs services for pay for an employer is presumed to be an employee. This presumption may be rebutted as specified below. "Employee" means and includes every person who may be permitted, required, or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, but shall not include any person exempted from the definition of employee as stated in RSA 281-A:2, VII(b) or any person who is deemed an independent contractor upon consideration of the following criteria:

(a) The person possesses or has applied for a federal employer identification number or social security number, or in the alternative, has agreed in writing to carry out the responsibilities imposed on employers under this chapter.

(b) The person has control and discretion over the means and manner of performance of the work, in that the result of the work, rather than the means or manner by which the work is performed, is the primary element bargained for by the employer, and the employer does not direct or supervise the means or manner of performance.

(c) The person has control over the time when the work is performed, and the time of performance is not dictated by the employer. However, this shall not prohibit the employer from reaching an agreement with the person as to a completion schedule, range of work hours, and the maximum number of work hours to be provided by the person, and in the case of entertainment, the time such entertainment is to be presented.

(d) The person hires and pays the person's assistants, if any, and to the extent such assistants are employees, supervises the details of the assistants' work.

(e) The person holds himself or herself out to be in business for himself or herself.

(f) The person has continuing or recurring business liabilities or obligations.

(g) The success or failure of the person's business depends on the relationship of business receipts to expenditures.

(h) The person incurs in the first instance the main expenses related to the service or work performed.

(i) The person is responsible for satisfactory completion of work and may be held contractually responsible for failure to complete the work.

(j) The person supplies the principal tools and instrumentalities used in the work, except that the employer may furnish tools or instrumentalities that are unique to the employer's special requirements or are located on the employer's premises.

(k) The person is not required to work exclusively for the employer.

3 New Paragraphs; Independent Contractor. Amend RSA 275:4 by inserting after paragraph II the following new paragraphs:

III. The factors set forth in subparagraphs II(a)-(k) shall be considered on a case by case basis, weighing all of the incidents of a given relationship and no one factor shall be outcome determinative. The greater the number of criteria in subparagraphs II(a)-(k) that exist in a given case, the more likely the individual will be deemed an independent contractor.

IV. Prima facie evidence that the criteria prescribed in subparagraphs II(a)-(k) have been met may be established by a written agreement, as set forth below, when signed by the employer and the person providing services, on or about the date such person was engaged, which describes the services to be performed and affirms that such services are to be performed in accordance with at least 7 of the criteria, 5 of which shall be subparagraphs II(a)-(e). Nothing in this paragraph shall require such an agreement to establish that the criteria have been met. Prima facie evidence that the criteria prescribed in subparagraphs II(a)-(k) have been met may also be established by a person's representations about his or her self-employed status to the United States Internal Revenue Service or other local, state, or federal agencies. If the commissioner finds that the employer's use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of up to \$2,500 on the employer. All funds collected under this paragraph shall be paid over to the state treasury for deposit into the general fund.

#### State of New Hampshire Department of Labor

#### VERIFICATION OF INDEPENDENT CONTRACTOR STATUS

To Be Completed By Independent Contractor At Time of Agreement to Provide Services

Name of Independent

Contractor: \_\_\_\_\_

Federal Employer Tax ID. #

Or Social Security Number: \_\_\_\_\_

Brief Description of

Service(s) you are Providing: \_\_\_\_\_

Service(s) Are Being Provided

To: Name and Address Of

Business/Entity \_\_\_\_\_

Check all statements that describe your agreement with the business or entity to whom you are providing services:

\_\_\_\_ (a) I have a federal employer tax identification number or social security number as listed above.

\_\_\_\_ (b) I have control and discretion over the means and manner of performance and I am not directed or supervised by the business or entity.

\_\_\_\_ (c) The time of performance is not dictated to me; or the business or entity and I have reached an agreement as to some or all of the following: completion schedules, range of work hours, maximum number of hours to be worked, and in the case of entertainment, the time such entertainment is to be provided.

\_\_\_\_ (d) I hire and pay assistants, if any, and supervise the details of the assistants' work, if those assistants are my employees.

\_\_\_\_ (e) I am in business for myself.

\_\_\_\_ (f) The success or failure of my business depends upon the relationship of receipts to expenditures.

\_\_\_\_ (g) I have continuing or recurring business liabilities or obligations.

\_\_\_\_ (h) I am responsible for the expenses related to the service or work performed.

\_\_\_\_ (i) I am responsible for the satisfactory completion of the work and may be contractually responsible for failure to complete the work.

\_\_\_\_ (j) I supply the principal tools/equipment used in the work, with the exception of tools/equipment that are unique to the business or entity's special requirements or are located on the business or entity's premises/work site.

\_\_\_\_ (k) I am free to perform services for other businesses/individuals.

IF AT LEAST 7 OF THE LISTED CRITERIA, (5 OF WHICH MUST BE (a)-(e)) ARE CHECKED, PLEASE CONTINUE FILLING OUT THIS FORM.

IF NOT, YOU ARE NOT PROPERLY CLASSIFIED AS AN INDEPENDENT CONTRACTOR.

I certify that I have completed this verification of independent contractor form knowingly and voluntarily and without duress or undue influence. I further certify as follows:

I understand that I am an independent contractor and not an employee of \_\_\_\_\_ (print name of business or entity). I understand that I am responsible to pay applicable state and federal taxes related to the payments I receive for the services provided hereunder.

I understand that as an independent contractor, I may be responsible for purchasing my own workers' compensation insurance policy. As an independent contractor I am not eligible to receive workers' compensation insurance coverage or benefits from \_\_\_\_\_ (print name of business or entity) or their workers' compensation insurance carrier.

I understand that as an independent contractor I am not an "employee" as defined under RSA 275:4, II; RSA 275:42, II; RSA 275-E:1, I; RSA 279:1, X; or RSA 281-A:2, VI(b)(1) and therefore I am not protected by/covered under state laws regarding procuring of employment, imposition of conditions, the payment of wages, minimum wage and overtime, whistleblowers' protection, or workers' compensation.

I hereby swear and acknowledge that the statements and representations made in this verification of independent contractor status are true and accurate and have been made by me knowingly and voluntarily and without duress or undue influence.

\_\_\_\_\_  
Signature of Independent Contractor

\_\_\_\_\_  
Signature of Business/Entity

\_\_\_\_\_  
Print Name of Independent Contractor

\_\_\_\_\_  
Print Name of Business/Entity

\_\_\_\_\_  
Date Fed ID # or Soc. Sec. #

\_\_\_\_\_  
Date Fed ID # or Soc. Sec. #

In accordance with New Hampshire law: "If the commissioner finds that the employer's use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of up to \$2,500 on the employer."



4 Payment of Wages; Definition of Employee Changed. RSA 275:42, II is repealed and reenacted to read as follows:

II. Any person who performs services for pay for an employer is presumed to be an employee. This presumption may be rebutted as specified below. "Employee" means and includes every person who may be permitted, required, or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, but shall not include any person exempted from the definition of employee as stated in RSA 281-A:2, VII(b) or any person who is deemed an independent contractor upon consideration of the following criteria:

(a) The person possesses or has applied for a federal employer identification number or social security number, or in the alternative, has agreed in writing to carry out the responsibilities imposed on employers under this chapter.

(b) The person has control and discretion over the means and manner of performance of the work, in that the result of the work, rather than the means or manner by which the work is performed, is the primary element bargained for by the employer, and the employer does not direct or supervise the means or manner of performance.

(c) The person has control over the time when the work is performed, and the time of performance is not dictated by the employer. However, this shall not prohibit the employer from reaching an agreement with the person as to a completion schedule, range of work hours, and the maximum number of work hours to be provided by the person, and in the case of entertainment, the time such entertainment is to be presented.

(d) The person hires and pays the person's assistants, if any, and to the extent such assistants are employees, supervises the details of the assistants' work.

(e) The person holds himself or herself out to be in business for himself or herself.

(f) The person has continuing or recurring business liabilities or obligations.

(g) The success or failure of the person's business depends on the relationship of business receipts to expenditures.

(h) The person incurs in the first instance the main expenses related to the service or work performed.

(i) The person is responsible for satisfactory completion of work and may be held contractually liable for failure to complete the work.

(j) The person supplies the principal tools and instrumentalities used in the work, except that the employer may furnish tools or instrumentalities that are unique to the employer's special requirements or are located on the employer's premises.

(k) The person is not required to work exclusively for the employer.

5 New Paragraphs; Independent Contractor. Amend RSA 275:42 by inserting after paragraph II the following new paragraphs:

II-a. The factors set forth in subparagraphs II(a)-(k) shall be considered on a case by case basis, weighing all of the incidents of a given relationship and no one factor shall be outcome determinative. The greater the number of criteria in subparagraphs II(a)-(k) that exist in a given case, the more likely the individual will be deemed an independent contractor.

II-b. Prima facie evidence that the criteria prescribed in subparagraphs II(a)-(k) have been met may be established by a written agreement, as set forth below when signed by the employer and the person

providing services, on or about the date such person was engaged, which describes the services to be performed and affirms that such services are to be performed in accordance with at least 7 of the criteria, 5 of which shall be subparagraphs II(a)-(e). Nothing in this paragraph shall require such an agreement to establish that the criteria have been met. Prima facie evidence that the criteria prescribed in subparagraphs II(a)-(k) have been met may also be established by a person's representations about his or her self-employed status to the United States Internal Revenue Service or other local, state, or federal agencies. If the commissioner finds that the employer's use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of up to \$2,500 on the employer. All funds collected under this paragraph shall be paid over to the state treasury for deposit into the general fund.

State of New Hampshire Department of Labor

VERIFICATION OF INDEPENDENT CONTRACTOR STATUS

To Be Completed By Independent Contractor At Time of Agreement to Provide Services

Name of Independent

Contractor: \_\_\_\_\_

Federal Employer Tax ID. #

Or Social Security Number: \_\_\_\_\_

Brief Description of

Service(s) you are Providing: \_\_\_\_\_

Service(s) Are Being Provided

To: Name and Address Of

Business/Entity \_\_\_\_\_

Check all statements that describe your agreement with the business or entity to whom you are providing services:

\_\_\_ (a) I have a federal employer tax identification number or social security number as listed above.

\_\_\_ (b) I have control and discretion over the means and manner of performance and I am not directed or supervised by the business or entity.

\_\_\_ (c) The time of performance is not dictated to me; or the business or entity and I have reached an agreement as to some or all of the following: completion schedules, range of work hours, maximum number of hours to be worked, and in the case of entertainment, the time such entertainment is to be provided.

\_\_\_ (d) I hire and pay assistants, if any, and supervise the details of the assistants' work, if those assistants are my employees.

\_\_\_ (e) I am in business for myself.

\_\_\_ (f) The success or failure of my business depends upon the relationship of receipts to expenditures.

\_\_\_ (g) I have continuing or recurring business liabilities or obligations.

\_\_\_ (h) I am responsible for the expenses related to the service or work performed.

\_\_\_ (i) I am responsible for the satisfactory completion of the work and may be contractually responsible for failure to complete the work.

\_\_\_\_ (j) I supply the principal tools/equipment used in the work, with the exception of tools/equipment that are unique to the business or entity's special requirements or are located on the business or entity's premises/work site.

\_\_\_\_ (k) I am free to perform services for other businesses/individuals.

IF AT LEAST 7 OF THE LISTED CRITERIA, (5 OF WHICH MUST BE (a)-(e)) ARE CHECKED, PLEASE CONTINUE FILLING OUT THIS FORM.

**IF NOT, YOU ARE NOT PROPERLY CLASSIFIED AS AN INDEPENDENT CONTRACTOR.**

I certify that I have completed this verification of independent contractor form knowingly and voluntarily and without duress or undue influence. I further certify as follows:

I understand that I am an independent contractor and not an employee of \_\_\_\_\_ (print name of business or entity). I understand that I am responsible to pay applicable state and federal taxes related to the payments I receive for the services provided hereunder.

I understand that as an independent contractor, I may be responsible for purchasing my own workers' compensation insurance policy. As an independent contractor I am not eligible to receive workers' compensation insurance coverage or benefits from \_\_\_\_\_ (print name of business or entity) or their workers' compensation insurance carrier.

I understand that as an independent contractor I am not an "employee" as defined under RSA 275:4, II; RSA 275:42, II; RSA 275-E:1, I; RSA 279:1, X; or RSA 281-A:2, VI(b)(1) and therefore I am not protected by/covered under state laws regarding procuring of employment, imposition of conditions, the payment of wages, minimum wage and overtime, whistleblowers' protection, or workers' compensation.

I hereby swear and acknowledge that the statements and representations made in this verification of independent contractor status are true and accurate and have been made by me knowingly and voluntarily and without duress or undue influence.

\_\_\_\_\_  
Signature of Independent Contractor

\_\_\_\_\_  
Signature of Business/Entity

\_\_\_\_\_  
Print Name of Independent Contractor

\_\_\_\_\_  
Print Name of Business/Entity

\_\_\_\_\_  
Date

\_\_\_\_\_  
Fed ID # or Soc. Sec. #

\_\_\_\_\_  
Date

\_\_\_\_\_  
Fed ID # or Soc. Sec. #

In accordance with New Hampshire law: "If the commissioner finds that the employer's use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of up to \$2,500 on the employer."

6 Whistleblowers' Protection Act; Definition of Employee Changed. RSA 275-E:1, I is repealed and reenacted to read as follows:

I. Any person who performs services for pay for an employer is presumed to be an employee. This presumption may be rebutted as specified below. "Employee" means and includes every person who may be permitted, required, or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, but shall not include

any person exempted from the definition of employee as stated in RSA 281-A:2, VII(b) or any person who is deemed an independent contractor upon consideration of the following criteria:

(a) The person possesses or has applied for a federal employer identification number or social security number, or in the alternative, has agreed in writing to carry out the responsibilities imposed on employers under this chapter.

(b) The person has control and discretion over the means and manner of performance of the work, in that the result of the work, rather than the means or manner by which the work is performed, is the primary element bargained for by the employer, and the employer does not direct or supervise the means or manner of performance.

(c) The person has control over the time when the work is performed, and the time of performance is not dictated by the employer. However, this shall not prohibit the employer from reaching an agreement with the person as to a completion schedule, range of work hours, and the maximum number of work hours to be provided by the person, and in the case of entertainment, the time such entertainment is to be presented.

(d) The person hires and pays the person's assistants, if any, and to the extent such assistants are employees, supervises the details of the assistants' work.

(e) The person holds himself or herself out to be in business for himself or herself.

(f) The person has continuing or recurring business liabilities or obligations.

(g) The success or failure of the person's business depends on the relationship of business receipts to expenditures.

(h) The person incurs in the first instance the main expenses related to the service or work performed.

(i) The person is responsible for satisfactory completion of work and may be held contractually responsible for failure to complete the work.

(j) The person supplies the principal tools and instrumentalities used in the work, except that the employer may furnish tools or instrumentalities that are unique to the employer's special requirements or are located on the employer's premises.

(k) The person is not required to work exclusively for the employer.

7 New Paragraphs; Independent Contractor. Amend RSA 275-E:1 by inserting after paragraph I the following new paragraphs:

I-a. The factors set forth in subparagraphs I(a)-(k) shall be considered on a case by case basis, weighing all of the incidents of a given relationship and no one factor shall be outcome determinative. The greater the number of criteria in subparagraphs I(a)-(k) that exist in a given case, the more likely the individual will be deemed an independent contractor.

I-b. Prima facie evidence that the criteria prescribed in subparagraphs I(a)-(k) have been met may be established by a written agreement, as set forth below when signed by the employer and the person providing services, on or about the date such person was engaged, which describes the services to be performed and affirms that such services are to be performed in accordance with at least 7 of the criteria, 5 of which shall be subparagraphs I(a)-(e). Nothing in this paragraph shall require such an agreement to establish that the criteria have been met. Prima facie evidence that the criteria prescribed in subparagraphs I(a)-(k) have been met may also be established by a person's representations about his or her self-employed status to the United States Internal Revenue Service or other local, state, or federal agencies. If the commissioner finds that the employer's

use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of up to \$2,500 on the employer. All funds collected under this paragraph shall be paid over to the state treasury for deposit into the general fund.

State of New Hampshire Department of Labor

### VERIFICATION OF INDEPENDENT CONTRACTOR STATUS

To Be Completed By Independent Contractor At Time of Agreement to Provide Services

Name of Independent

Contractor: \_\_\_\_\_

Federal Employer Tax ID. #

Or Social Security Number: \_\_\_\_\_

Brief Description of

Service(s) you are Providing: \_\_\_\_\_

Service(s) Are Being Provided

To: Name and Address Of

Business/Entity \_\_\_\_\_

Check all statements that describe your agreement with the business or entity to whom you are providing services:

\_\_\_ (a) I have a federal employer tax identification number or social security number as listed above.

\_\_\_ (b) I have control and discretion over the means and manner of performance and I am not directed or supervised by the business or entity.

\_\_\_ (c) The time of performance is not dictated to me; or the business or entity and I have reached an agreement as to some or all of the following: completion schedules, range of work hours, maximum number of hours to be worked, and in the case of entertainment, the time such entertainment is to be provided.

\_\_\_ (d) I hire and pay assistants, if any, and supervise the details of the assistants' work, if those assistants are my employees.

\_\_\_ (e) I am in business for myself.

\_\_\_ (f) The success or failure of my business depends upon the relationship of receipts to expenditures.

\_\_\_ (g) I have continuing or recurring business liabilities or obligations.

\_\_\_ (h) I am responsible for the expenses related to the service or work performed.

\_\_\_ (i) I am responsible for the satisfactory completion of the work and may be contractually responsible for failure to complete the work.

\_\_\_ (j) I supply the principal tools/equipment used in the work, with the exception of tools/equipment that are unique to the business or entity's special requirements or are located on the business or entity's premises/work site.

\_\_\_ (k) I am free to perform services for other businesses/individuals.

IF AT LEAST 7 OF THE LISTED CRITERIA, (5 OF WHICH MUST BE (a)-(e)) ARE CHECKED, PLEASE CONTINUE FILLING OUT THIS FORM.

IF NOT, YOU ARE NOT PROPERLY CLASSIFIED AS AN INDEPENDENT CONTRACTOR.

I certify that I have completed this verification of independent contractor form knowingly and voluntarily and without duress or undue influence. I further certify as follows:

I understand that I am an independent contractor and not an employee of \_\_\_\_\_ (print name of business or entity). I understand that I am responsible to pay applicable state and federal taxes related to the payments I receive for the services provided hereunder.

I understand that as an independent contractor, I may be responsible for purchasing my own workers' compensation insurance policy. As an independent contractor I am not eligible to receive workers' compensation insurance coverage or benefits from \_\_\_\_\_ (print name of business or entity) or their workers' compensation insurance carrier.

I understand that as an independent contractor I am not an "employee" as defined under RSA 275:4, II; RSA 275:42, II; RSA 275-E:1, I; RSA 279:1, X; or RSA 281-A:2, VI(b)(1) and therefore I am not protected by/covered under state laws regarding procuring of employment, imposition of conditions, the payment of wages, minimum wage and overtime, whistleblowers' protection, or workers' compensation.

I hereby swear and acknowledge that the statements and representations made in this verification of independent contractor status are true and accurate and have been made by me knowingly and voluntarily and without duress or undue influence.

\_\_\_\_\_  
Signature of Independent Contractor

\_\_\_\_\_  
Signature of Business/Entity

\_\_\_\_\_  
Print Name of Independent Contractor

\_\_\_\_\_  
Print Name of Business/Entity

\_\_\_\_\_  
Date Fed ID # or Soc. Sec. #

\_\_\_\_\_  
Date Fed ID # or Soc. Sec. #

In accordance with New Hampshire law: "If the commissioner finds that the employer's use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of up to \$2,500 on the employer."

8 Minimum Wage Law; Definition of Employee Changed. RSA 279:1, X is repealed and reenacted to read as follows:

X. Any person who performs services for pay for an employer is presumed to be an employee. This presumption may be rebutted as specified below. "Employee" means and includes every person who may be permitted, required, or directed by any employer, in consideration of direct or indirect gain or profit, to engage in any employment, but shall not include any person exempted from the definition of employee as stated in RSA 281-A:2, VII(b) or any person who is deemed an independent contractor upon consideration of the following criteria:

(a) The person possesses or has applied for a federal employer identification number or social security number, or in the alternative, has agreed in writing to carry out the responsibilities imposed on employers under this chapter.

(b) The person has control and discretion over the means and manner of performance of the work, in that the result of the work, rather

than the means or manner by which the work is performed, is the primary element bargained for by the employer, and the employer does not direct or supervise the means or manner of performance.

(c) The person has control over the time when the work is performed, and the time of performance is not dictated by the employer. However, this shall not prohibit the employer from reaching an agreement with the person as to a completion schedule, range of work hours, and the maximum number of work hours to be provided by the person, and in the case of entertainment, the time such entertainment is to be presented.

(d) The person hires and pays the person's assistants, if any, and to the extent such assistants are employees, supervises the details of the assistants' work.

(e) The person holds himself or herself out to be in business for himself or herself.

(f) The person has continuing or recurring business liabilities or obligations.

(g) The success or failure of the person's business depends on the relationship of business receipts to expenditures.

(h) The person incurs in the first instance the main expenses related to the service or work performed.

(i) The person is responsible for satisfactory completion of work and may be held contractually responsible for failure to complete the work.

(j) The person supplies the principal tools and instrumentalities used in the work, except that the employer may furnish tools or instrumentalities that are unique to the employer's special requirements or are located on the employer's premises.

(k) The person is not required to work exclusively for the employer.

9 New Paragraphs; Independent Contractor. Amend RSA 279:1 by inserting after paragraph X the following new paragraphs:

X-a. The factors set forth in subparagraphs X(a)-(k) shall be considered on a case by case basis, weighing all of the incidents of a given relationship and no one factor shall be outcome determinative. The greater the number of criteria in subparagraphs X(a)-(k) that exist in a given case, the more likely the individual will be deemed an independent contractor.

X-b. Prima facie evidence that the criteria prescribed in subparagraphs X(a)-(k) have been met may be established by a written agreement, as set forth below when signed by the employer and the person providing services, on or about the date such person was engaged, which describes the services to be performed and affirms that such services are to be performed in accordance with at least 7 of the criteria, 5 of which shall be subparagraphs X(a)-(e). Nothing in this paragraph shall require such an agreement to establish that the criteria have been met. Prima facie evidence that the criteria prescribed in subparagraphs X(a)-(k) have been met may also be established by a person's representations about his or her self-employed status to the United States Internal Revenue Service or other local, state, or federal agencies. If the commissioner finds that the employer's use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of up to \$2,500 on the employer. All funds collected under this paragraph shall be paid over to the state treasury for deposit into the general fund.

## State of New Hampshire Department of Labor

## VERIFICATION OF INDEPENDENT CONTRACTOR STATUS

To Be Completed By Independent Contractor At Time of Agreement to Provide Services

Name of Independent

Contractor: \_\_\_\_\_

Federal Employer Tax ID. #

Or Social Security Number: \_\_\_\_\_

Brief Description of

Service(s) you are Providing: \_\_\_\_\_

Service(s) Are Being Provided

To: Name and Address Of

Business/Entity \_\_\_\_\_

Check all statements that describe your agreement with the business or entity to whom you are providing services:

\_\_\_ (a) I have a federal employer tax identification number or social security number as listed above.

\_\_\_ (b) I have control and discretion over the means and manner of performance and I am not directed or supervised by the business or entity.

\_\_\_ (c) The time of performance is not dictated to me; or the business or entity and I have reached an agreement as to some or all of the following: completion schedules, range of work hours, maximum number of hours to be worked, and in the case of entertainment, the time such entertainment is to be provided.

\_\_\_ (d) I hire and pay assistants, if any, and supervise the details of the assistants' work, if those assistants are my employees.

\_\_\_ (e) I am in business for myself.

\_\_\_ (f) The success or failure of my business depends upon the relationship of receipts to expenditures.

\_\_\_ (g) I have continuing or recurring business liabilities or obligations.

\_\_\_ (h) I am responsible for the expenses related to the service or work performed.

\_\_\_ (i) I am responsible for the satisfactory completion of the work and may be contractually responsible for failure to complete the work.

\_\_\_ (j) I supply the principal tools/equipment used in the work, with the exception of tools/equipment that are unique to the business or entity's special requirements or are located on the business or entity's premises/work site.

\_\_\_ (k) I am free to perform services for other businesses/individuals.

**IF AT LEAST 7 OF THE LISTED CRITERIA, (5 OF WHICH MUST BE (a)-(e)) ARE CHECKED, PLEASE CONTINUE FILLING OUT THIS FORM.**

**IF NOT, YOU ARE NOT PROPERLY CLASSIFIED AS AN INDEPENDENT CONTRACTOR.**

I certify that I have completed this verification of independent contractor form knowingly and voluntarily and without duress or undue influence. I further certify as follows:

I understand that I am an independent contractor and not an employee of \_\_\_\_\_ (print name of business or entity). I understand that I am responsible to pay applicable state and federal taxes related to the payments I receive for the services provided hereunder.



I understand that as an independent contractor, I may be responsible for purchasing my own workers' compensation insurance policy. As an independent contractor I am not eligible to receive workers' compensation insurance coverage or benefits from \_\_\_\_\_ (print name of business or entity) or their workers' compensation insurance carrier.

I understand that as an independent contractor I am not an "employee" as defined under RSA 275:4, II; RSA 275:42, II; RSA 275-E:1, I; RSA 279:1, X; or RSA 281-A:2, VI(b)(1) and therefore I am not protected by/covered under state laws regarding procuring of employment, imposition of conditions, the payment of wages, minimum wage and overtime, whistleblowers' protection, or workers' compensation.

I hereby swear and acknowledge that the statements and representations made in this verification of independent contractor status are true and accurate and have been made by me knowingly and voluntarily and without duress or undue influence.

\_\_\_\_\_  
Signature of Independent Contractor

\_\_\_\_\_  
Signature of Business/Entity

\_\_\_\_\_  
Print Name of Independent Contractor

\_\_\_\_\_  
Print Name of Business/Entity

\_\_\_\_\_  
Date

\_\_\_\_\_  
Fed ID # or Soc. Sec. #

\_\_\_\_\_  
Date

\_\_\_\_\_  
Fed ID # or Soc. Sec. #

In accordance with New Hampshire law: "If the commissioner finds that the employer's use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of up to \$2,500 on the employer."

10 Workers' Compensation; Definition of Employee Changed. RSA 281-A:2, VI(b)(1) is repealed and reenacted to read as follows:

(b)(1)(A) Subject to the preceding subparagraph, any person, other than a direct seller or qualified real estate broker or agent or real estate appraiser, who performs services for pay for an employer, is presumed to be an employee. This presumption may be rebutted by proof that an individual is deemed an independent contractor upon consideration of the following criteria:

(i) The person possesses or has applied for a federal employer identification number or social security number, or in the alternative, has agreed in writing to carry out the responsibilities imposed on employers under this chapter.

(ii) The person has control and discretion over the means and manner of performance of the work, in that the result of the work, rather than the means or manner by which the work is performed, is the primary element bargained for by the employer, and the employer does not direct or supervise the means or manner of performance.

(iii) The person has control over the time when the work is performed, and the time of performance is not dictated by the employer. However, this shall not prohibit the employer from reaching an agreement with the person as to a completion schedule, range of work hours, and the maximum number of work hours to be provided by the person, and in the case of entertainment, the time such entertainment is to be presented.

(iv) The person hires and pays the person's assistants, if any, and to the extent such assistants are employees, supervises the details of the assistants' work.

(v) The person holds himself or herself out to be in business for himself or herself.

(vi) The person has continuing or recurring business liabilities or obligations.

(vii) The success or failure of the person's business depends on the relationship of business receipts to expenditures.

(viii) The person incurs in the first instance the main expenses related to the service or work performed.

(ix) The person is responsible for satisfactory completion of work and may be held contractually responsible for failure to complete the work.

(x) The person supplies the principal tools and instrumentalities used in the work, except that the employer may furnish tools or instrumentalities that are unique to the employer's special requirements or are located on the employer's premises.

(xi) The person is not required to work exclusively for the employer.

(B) The factors set forth in subparagraphs VI(b)(1)(A)(i)-(xi) shall be considered on a case by case basis, weighing all of the incidents of a given relationship and no one factor shall be outcome determinative. The greater the number of criteria in subparagraphs VI(b)(1)(A)(i)-(xi) that exist in a given case, the more likely the individual will be deemed an independent contractor.

11 Workers' Compensation; Definition of Employee; Reference Changed. RSA 281-A:2, VI(c) is repealed and reenacted to read as follows:

(c) Prima facie evidence that the criteria prescribed in RSA 281-A:2, VI(b)(1)(A)(i)-(xi) have been met may be established by a written agreement as set forth below when signed by the employer and the person providing services, on or about the date such person was engaged, which describes the services to be performed and affirms that such services are to be performed in accordance with at least 7 of the criteria, 5 of which shall be subparagraphs VI(b)(1)(A)(i)-(v). Nothing in this paragraph shall require such an agreement to establish that the criteria have been met. Prima facie evidence that the criteria prescribed in subparagraphs VI(b)(1)(A)(i)-(xi) have been met may also be established by a person's representations about his or her self-employed status to the United States Internal Revenue Service or other local, state, or federal agencies. If the commissioner finds that the employer's use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of up to \$2,500 on the employer. All funds collected under this paragraph shall be paid over to the state treasury for deposit into the general fund.

State of New Hampshire Department of Labor

## VERIFICATION OF INDEPENDENT CONTRACTOR STATUS

To Be Completed By Independent Contractor At Time of Agreement to Provide Services

Name of Independent Contractor: \_\_\_\_\_

Federal Employer Tax ID. # \_\_\_\_\_

Or Social Security Number: \_\_\_\_\_

Brief Description of

Service(s) you are Providing: \_\_\_\_\_

Service(s) Are Being Provided

To: Name and Address Of

Business/Entity \_\_\_\_\_

Check all statements that describe your agreement with the business or entity to whom you are providing services:

\_\_\_ (a) I have a federal employer tax identification number or social security number as listed above.

\_\_\_ (b) I have control and discretion over the means and manner of performance and I am not directed or supervised by the business or entity.

\_\_\_ (c) The time of performance is not dictated to me; or the business or entity and I have reached an agreement as to some or all of the following: completion schedules, range of work hours, maximum number of hours to be worked, and in the case of entertainment, the time such entertainment is to be provided.

\_\_\_ (d) I hire and pay assistants, if any, and supervise the details of the assistants' work, if those assistants are my employees.

\_\_\_ (e) I am in business for myself.

\_\_\_ (f) The success or failure of my business depends upon the relationship of receipts to expenditures.

\_\_\_ (g) I have continuing or recurring business liabilities or obligations.

\_\_\_ (h) I am responsible for the expenses related to the service or work performed.

\_\_\_ (i) I am responsible for the satisfactory completion of the work and may be contractually responsible for failure to complete the work.

\_\_\_ (j) I supply the principal tools/equipment used in the work, with the exception of tools/equipment that are unique to the business or entity's special requirements or are located on the business or entity's premises/work site.

\_\_\_ (k) I am free to perform services for other businesses/individuals.

IF AT LEAST 7 OF THE LISTED CRITERIA, (5 OF WHICH MUST BE (a)-(e)) ARE CHECKED, PLEASE CONTINUE FILLING OUT THIS FORM.

IF NOT, YOU ARE NOT PROPERLY CLASSIFIED AS AN INDEPENDENT CONTRACTOR.

I certify that I have completed this verification of independent contractor form knowingly and voluntarily and without duress or undue influence. I further certify as follows:

I understand that I am an independent contractor and not an employee of \_\_\_\_\_ (print name of business or entity). I understand that I am responsible to pay applicable state and federal taxes related to the payments I receive for the services provided hereunder.

I understand that as an independent contractor, I may be responsible for purchasing my own workers' compensation insurance policy. As an independent contractor I am not eligible to receive workers' compensation insurance coverage or benefits from \_\_\_\_\_ (print name of business or entity) or their workers' compensation insurance carrier.

I understand that as an independent contractor I am not an "employee" as defined under RSA 275:4, II; RSA 275:42, II; RSA 275-E:1, I; RSA 279:1, X; or RSA 281-A:2, VI(b)(1) and therefore I am not protected

by/covered under state laws regarding procuring of employment, imposition of conditions, the payment of wages, minimum wage and overtime, whistleblowers' protection, or workers' compensation.

I hereby swear and acknowledge that the statements and representations made in this verification of independent contractor status are true and accurate and have been made by me knowingly and voluntarily and without duress or undue influence.

---

Signature of Independent Contractor

---

Signature of Business/Entity

---

Print Name of Independent Contractor

---

Print Name of Business/Entity

---

Date

---

Fed ID # or Soc. Sec. #

---

Date

---

Fed ID # or Soc. Sec. #

In accordance with New Hampshire law: "If the commissioner finds that the employer's use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of up to \$2,500 on the employer."

12 Effective Date.

I. Section 1 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect January 1, 2007.

**2006-2149s**

#### AMENDED ANALYSIS

This bill requires that information about the classification of workers as employees or independent contractors be posted as part of the "Know Your Rights" notice in every place of employment.

This bill creates a uniform definition of employee and clarifies the criteria for exempting a worker from employee status.

SENATOR CLEGG: I'd like to move floor amendment 2149.

SENATOR GATSAS (In the Chair): Floor amendment 2149 has been proposed. Is there any, excuse me. Senator Clegg, you can talk to your amendment as it's being passed out.

SENATOR CLEGG: Senate Bill...this is...267 was passed by this body and sent to the House, and once again, we need to give the House another chance to see the light. All we've done is we've taken the exact bill we passed in the Senate, and attached it to this bill and send it back over. I believe it left in good shape the first time, and urge my colleagues to vote once more to send it again.

SENATOR HASSAN: Thank you, Mr. President. I rise in opposition to the amendment, understanding that I voted for this bill when it was over in this chamber. I just want to update the body. The bill, 267, as we amended it here, did go over to the House, which voted to send it to interim study. Among the reasons they did that was because they discovered some problems in the first section of the bill before the form. There was a lack of consistency between the way the form was defining "independent contractor" and the way it was actually defined in the statute. And moreover, we determined that there is a current law suit against FED EX by twenty-nine New Hampshire residents involving their signing a form, not exactly like the one in here, but similar to it, and there was some concern that our action on this form might be used in that court case inappropriately. So for those reasons, the House voted to send this to interim study. And

I'll note that the study committee that worked on the initial bill, 267, has been extended, so it will be possible for us to take another look at this and perhaps come up with a slightly better bill over the summer. Thank you.

SENATOR CLEGG: Thank you. In light of the Federal Express lawsuit, I'd like to point out that had this law been in place, and FED EX and the employees used the form that was in this piece of legislation, there would be no court case. And if there's a minor difficulty in some wording, I think that we've fixed things like that more than once in a Committee of Conference. This bill still allows people to sign a form prescribed by us, the state, that says, "I know...I'm an independent contractor, I meet the five original, plus two new criteria to do so." It's protection for both the worker and protection for the employer. I think now's the best time to put it in place. Especially, when you have something like a FED EX case where there was something wrong with the form. One prescribed by the state ought to be adequate. Thank you.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

SENATOR BRAGDON: Mr. President, on that last bill, 1752, that motion was ought to pass or ought to pass as amended?

SENATOR GATSAS (In the Chair): Ought to pass as amended.

SENATOR BRAGDON: Thank you.

SENATOR GATSAS (In the Chair): Thank you, Senator.

**HB 1343**, relative to the duties of the council on resources and development. Capital Budget. Ought to pass with amendment. Vote 3-0. Senator Clegg for the committee.

**Capital Budget**

**April 18, 2006**

**2006-1870s**

**10/09**

### **Amendment to HB 1343**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to the duties of the council on resources and development, and making bonded appropriations to the department of environmental services and the New Hampshire veterans' home.

Amend the bill by inserting after section 6 the following and renumbering the original section 7 to read as 10:

7 Department of Environmental Services; Capital Appropriation; Bonds Authorized.

I. The sum of \$610,000 is hereby appropriated to the department of environmental services for the fiscal year ending June 30, 2007 for the purpose of completing the department of environmental services e-permitting database. The appropriation is in addition to any other sums appropriated to the department and shall be nonlapsing.

II. To provide funds for the appropriation made in paragraph I, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$610,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made from the general fund of the state.

8 Veterans Home; Capital Appropriations. The following sums are appropriated to the New Hampshire veterans' home for the following purposes:

I. Recreation room storm repairs	\$ 36,000
Less federal	<u>-27,000</u>
Net state appropriation	\$ 9,000
II. Recreation room renovation	\$257,100
Less federal	<u>-167,115</u>
Net state appropriation	\$ 89,985

9 Bonds Authorized. To provide funds for the appropriations made in section 8 of this act, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$98,985 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made from the general fund of the state.

**2006-1870s**

### AMENDED ANALYSIS

This bill:

I. Requires the council on resources and development to give advice, rather than approval, prior to the disposal of state-owned lands.

II. Removes the binding effect of the council's recommendations relative to coordination of member agencies.

III. Requires the council to provide the legislature and governor and council with copies of the council's meeting minutes.

IV. Requires the New Hampshire housing finance authority to obtain the approval of the long-range capital planning and utilization committee, with advice from the council on resources and development, and final approval by the governor and council, prior to the transfer of lands under the surplus lands housing program.

V. Makes a bonded appropriation to the department of environmental services for completing the e-permitting database.

VI. Makes a bonded capital appropriation to the New Hampshire veterans' home for repairs and renovations.

SENATOR CLEGG: Thank you, Mr. President. I move House Bill 1343 ought to pass with amendment. The bill makes the Council on Resources and Development an advisory group. It was originally established to have an advisory role and it is an appropriate role for them to remain an advisory for the disposal of state-owned property prior to final approval from Governor and Council. CORD often gets into areas of policy that may be small, but have large consequences. Policy should always be left for the legislators; management should be left to state officials. In addition, \$610,000 in general funds are bonded to continue the work by the Department of Environmental Services on its e-permitting database. It also allows \$98,985 to be bonded for the necessary repairs as a result of storm damage to the New Hampshire Veterans' Home. A federal match will be made available with the bonding of these funds. The Capital Budget Committee asks for your support on the motion of ought to pass with amendment.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

## RESOLUTION

Senator Clegg moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that all bills and resolutions ordered to a third reading be, by this resolution, read a third time, and all titles be the same as adopted, and that they be passed at the present time.

**Adopted.**

## LATE SESSION

### Third Reading and Final Passage

**HB 627-FN**, relative to including persons 17 years old in the juvenile justice system.

**HB 645-FN**, relative to fire-safer cigarettes.

**HB 689-FN**, relative to the jurisdiction of the New Hampshire commission for human rights over housing discrimination cases.

**HB 1126**, relative to licenses for first mortgage bankers, brokers, pawnbrokers, and money lenders.

**HB 1167-FN-A**, making an appropriation to the land and community heritage investment program.

**HB 1192**, relative to property and casualty insurance.

**HB 1194**, relative to job protection for firefighters, rescue workers, and emergency medical personnel.

**HB 1241-FN-L**, extending the kindergarten construction aid program.

**HB 1249-FN-A-L**, relative to state reimbursement for school breakfasts and making an appropriation therefor.

**HB 1278**, increasing the fine for violating certain laws relative to labor.

**HB 1315**, relative to the definition and classification of dams.

**HB 1337**, establishing the amusement ride safety advisory board.

**HB 1343**, relative to the duties of the council on resources and development

**HB 1407-FN-A**, relative to funding exotic aquatic weeds eradication and control.

**HB 1429**, relative to municipal exemptions for hazardous waste cleanup liability.

**HB 1458-FN**, relative to the regulation of landscape architects.

**HB 1459-FN-A**, relative to the department of regional community-technical colleges and making an appropriation therefor.

**HB 1464-FN-A-L**, relative to mosquito control, establishing a mosquito control fund and making an appropriation therefor.

**HB 1474-FN**, relative to unemployment compensation contribution rates and benefits.

**HB 1478**, relative to penalties for employers who give false or incomplete required information about employees to the department of employment security and establishing an amnesty period for certain unpaid contributions.

**HB 1588**, relative to unemployment compensation requirements for governmental and non-profit employers.

**HB 1590-FN**, relative to the pari-mutuel commission.

**HB 1593-FN-L**, relative to the construction of high school athletic fields in the town of Bedford.

**HB 1603-FN**, relative to administration and enforcement by the division of forests and lands over forest resources and timber harvesting.

**HB 1611-FN**, relative to reimbursement for personal care services.

**HB 1624-FN**, relative to boat noise.

**HB 1626-FN-A**, relative to appropriations for the expenses of certain departments of the state.

**HB 1648-FN**, relative to legal residency and financial liability for children in certain residential placements.

**HB 1656-FN-A**, establishing an electronic toll collection transponder inventory fund.

**HB 1672-FN**, relative to a registry for substantiated cases of abuse, neglect, or exploitation of incapacitated adults and establishing a task force relative to central registries.

**HB 1683-FN**, establishing a homestead food license for residential, non-commercial kitchens.

**HB 1696-FN**, relative to the cremation of human remains.

**HB 1697-FN**, relative to certain state salaries.

**HB 1710-FN-A**, relative to appropriations to the department of health and human services for home care providers and community mental centers and making an appropriation to increase the hourly rate of pay for direct care providers for persons with developmental and acquired disabilities and extending the provision of supplemental pharmacy assistance.

**HB 1725-FN**, extending the pilot project relative to abuse and neglect hearings and relative to confidentiality in pilot project abuse and neglect cases.

**HB 1735-FN**, relative to awarding the state employees' health insurance plan.

**HB 1741-FN**, relative to reporting requirements concerning infections in hospitals.

**HB 1745-FN**, relative to methamphetamine-related crimes involving children and incapacitated adults.

**HB 1747-FN**, establishing a New Hampshire healthy tidal waters and shellfish protection program and making an appropriation therefor.

**HB 1752**, requiring notice regarding the classifications of employee and independent contractor.

## ANNOUNCEMENTS

### RESOLUTION

Senator Clegg moved that the Senate recess to the Call of the Chair for the sole purpose of sending and receiving messages, processing enrolled bill reports and amendments.

**Adopted.**

**In recess to the Call of the Chair.**



**REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

**HB 391**, relative to election affidavits.

**HB 599-FN**, requiring disclosure to consumers of the presence of event data recording devices in new motor vehicles.

**HB 1108**, relative to the transfer of funds among PAUs within a department and relative to the temporary provision of assistance to persons eligible for both Medicaid and Medicare services and extending the appropriation therefor.

**HB 1111**, designating the pumpkin as the New Hampshire state fruit.

**HB 1155**, creating a violation for failure to pay a highway toll.

**HB 1172-FN**, relative to registration of political committees.

**HB 1174**, requiring that voters who request a secret ballot be present at the town meeting.

**HB 1228-FN**, relative to the sale or lease of state-owned real estate and relative to penalties under the real estate practice act.

**HB 1294**, relative to antique snowmobiles.

**HB 1307**, relative to application requirements for motor vehicle recycling yard licenses.

**HB 1320**, relative to penalties for planning and zoning violations.

**HB 1349**, relative to costs of personnel and rates for equipment use in hazardous waste incidents.

**HB 1394**, relative to determination of value of property in current use.

**HB 1652-FN**, relative to certain insurance claims.

**HB 1673-FN**, relative to the reduction of mercury emissions.

**HB 1709-FN**, establishing an autism registry in the department of health and human services.

**HB 1738-FN**, prohibiting the use of surveillance devices to identify motor vehicles.

**HB 1749-FN**, relative to access to motor vehicle records by certain defense contractors.

**HB 1754**, relative to canteen privileges at veterans' clubs licensed by the liquor commission.

**HJR 22**, a resolution in recognition and support of New Hampshire's participation in the Experimental Program to Stimulate Competitive Research.

**HJR 25**, encouraging the United States Congress to propose an amendment to the Constitution concerning eminent domain.

**SB 234**, including the International Residential Code 2000 in the definition of the state building code.

**SB 254**, renaming a certain bridge in the town of Stratford the Janice Peaslee Bridge.

**SB 260**, relative to certification of a registered nurse responsible for emergency medical transportation.

**SB 404**, relative to retirement benefits, service credits, and administration of the Manchester employees' contributory retirement system.

Senator Clegg moved adoption.

**Adopted.**

**Out of Recess.**

### LATE SESSION

Senator Clegg moved that the Senate adjourn from the late session.

**Adopted.**

**Adjournment.**

*May 4, 2006*

The Senate met at 10:00 a.m.

A quorum was present.

The Reverend David P. Jones, chaplain to the Senate, offered the prayer.

Good Morning! As I observed you all in action yesterday afternoon, I realized for the first time, how very fortunate I feel that these opening reflections and prayers are not subject to a roll call. And don't get any ideas back there, Jack Barnes. Vouchers, drivers' licenses, child support, who gets to bid on the power plant for Berlin, and who gets to do the paperwork for some of our social services? I don't need to tell you there is a lot of feeling around all of those issues, and today, you get to vote on all of them, or maybe tomorrow. How you vote is very important, obviously, but please remember that how you treat those who vote differently from you is even more important. "It's people", as Senator Morse is about to remind us. It's people that matter and not issues. Let us pray:

*Gracious God, You have identified each of us with the unique imprint of Your goodness and with the astonishing responsibility of free will. Remind us endlessly of the priceless value You see in each one of us, and give us the wisdom and temperance to exercise our freedom primarily in service.*

*Amen*

Senator Larsen led the Pledge of Allegiance.

Senator D'Allesandro is excused for the day.

### INTRODUCTION OF GUESTS

#### COMMITTEE REPORTS

**HB 1113**, adding a definition of "public academy" to the definition of "high school". Education Committee. Ought to pass with amendment, Vote 5-0. Senator Eaton for the committee.

**Senate Education**

**April 18, 2006**

**2006-1858s**

**04/01**

#### Amendment to HB 1113

Amend the title of the bill by replacing it with the following:

**AN ACT** adding a definition of "public academy" to the definition of "high school"; relative to the membership of the state advisory committee on the education of children/students with disabilities; and amending the definition of "limited English proficient pupil."

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 4, respectively:

2 New Subparagraphs; State Advisory Committee on the Education of Children/Students with Disabilities. Amend RSA 186-C:3-b, II by inserting after subparagraph (q) the following new subparagraphs:

(r) An official who carries out activities under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. section 11431, et seq.

(s) A representative from the department of health and human services responsible for foster care.

3 School Money; Definitions. Amend RSA 198:38, VII to read as follows:

VII. "Limited English proficient pupil" means an annual count of pupils in kindergarten through grade 12 receiving instruction in English for speakers of other languages for 5 or more [hours] *sessions* per week. *A session is defined as not less than 40 minutes.* Pupils shall be counted and attributed to the municipality or municipalities operating the school attended by the pupils.

**2006-1858s**

### AMENDED ANALYSIS

This bill:

I. Adds a definition of "public academy" to the definition of "high school."

II. Adds members to the state advisory committee on the education of children/students with disabilities.

III. Changes the definition of "limited English proficient pupil."

SENATOR EATON: Thank you. House Bill 1113 is a housekeeping bill at the request of the Department of Education which adds the definition of "public academy" to the definition of "high school" into current law. The amendment, at the request of the prime sponsor, adds a federally required member to the state advisory committee on the education of children/students with disabilities. The amendment also changes the law in the words "hours" to "session" for those students that are enrolled in English as second language because many school periods are less than an hour. The Education Committee asks you to join them in the vote. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

Senator Foster (Rule #42) on HB 1113.

**HB 1157**, relative to the definition of a sending district. Education Committee. Ought to pass, Vote 5-0. Senator Bragdon for the committee.

SENATOR BRAGDON: Thank you Mr. President. HB 1157 will revise the RSA which defines a sending district. The current law works for juvenile justice protection cases, but not for when legal guardianship is transferred to DCYF. The unintended legal consequences is that the original school district where the child and the parent or guardian resided when the child was originally placed, could wrongly be named the sending district rather than the school district where the parent or

guardian resided when DCYF was awarded custody. The bill makes the technical changes required to clear up this problem. Please join the Senate Education Committee and vote this bill ought to pass. Thank you.

**Adopted.**

**Ordered to third reading.**

### **MOTION OF RECONSIDERATION**

Senator Burling, having voted with the prevailing side, moved reconsideration of **HB 1752**, requiring notice regarding the classifications of employee and independent contractor, whereby it was ordered to third reading and final passage.

A roll call was requested...

SENATOR CLEGG: Is it debatable, Mr. President?

SENATOR GATSAS (In the Chair): It isn't now.

SENATOR CLEGG: It isn't?

SENATOR BURLING: Parliamentary inquiry?

SENATOR GATSAS (In the Chair): If you could wait one second, Senator.

SENATOR BURLING: Absolutely.

SENATOR GATSAS (In the Chair): The Clerk is going to check with the House because it has already been sent to the House, to see if we can get it back into our possession, and then I will recognize you for a motion for reconsideration.

**HB 1539**, establishing a committee to study the shortage in speech language services and the criteria for certification as a speech language specialist. Education Committee. Ought to pass, Vote 4-0. Senator Bragdon for the committee.

### **MOTION TO TABLE**

Senator Bragdon moved to have HB 1539 laid on the table.

**Adopted.**

### **LAIID ON THE TABLE**

**HB 1539**, establishing a committee to study the shortage in speech language services and the criteria for certification as a speech language specialist.

**HB 1289**, relative to Pennichuck Brook and its watershed. Energy and Economic Development Committee. Inexpedient to legislate, Vote 5-0. Senator Boyce for the committee.

SENATOR BOYCE: Thank you, Mr. President. I move that House Bill 1289 be inexpedient to legislate. This bill proposed to codify pending rules before the Department of Environmental Services and to protect the Pennichuck Brook watershed. Although the committee heard testimony on the need to protect the watershed and the state's future water supply, it was ultimately determined to be a local control issue more than a need to codify these rules at this time. We felt that there should be more local input and a local vote, instead of the state establishing these rules as law at this time. The committee also felt that the communities did not receive ample notice on this legislation. Therefore, if you would please join the Energy and Economic Development Committee to vote inexpedient to legislate. Thank you.

**Committee report of inexpedient to legislate is adopted.**

Senator Clegg (Rule #42) on HB 1289.

Senator Foster (Rule #42) on HB 1289.

Senator Gottesman (Rule #42) on HB 1289.

**HB 1534**, relative to maintaining construction and demolition debris as a solid waste. Energy and Economic Development Committee. Inexpedient to legislate, Vote 4-1. Senator Bragdon for the committee.

**SENATOR BRAGDON:** Thank you, Mr. President. I move House Bill 1534 inexpedient to legislate. This bill requires that construction and demolition debris be designated and regulated as a solid waste. The committee feels we should wait until the committee's studying what to do with construction and demolition debris finishes its work before we start tinkering with statutes. Please join the Energy and Economic Development Committee in voting inexpedient to legislate. Thank you.

**SENATOR LARSEN:** Thank you, Mr. President. The issue of construction and demolition debris burning in New Hampshire, as you know, is one which we've had many debates on, and I applaud this body for having recognized the pollution that occurs and the diminution of our clean air that occurs when we burn construction debris with lead and further heavy metals that go into our clean air. This bill, it was important to have as ought to pass. We need to defeat the inexpedient to legislate motion and allow a substitution of ought to pass. My understanding, that's the parliamentary procedure that we have to first vote down inexpedient to legislate, but I ask you to vote down inexpedient to legislate. We have seen a department that attempted to reclassify solid...this construction and demolition debris, just by renaming it something else. They hoped they could issue a permit under a different title. Well, a pig is a pig, even if you put lipstick on it, and this is a pig that we need to take to the slaughter house. I ask you to vote down inexpedient to legislate so we can make this bill ought to pass.

**SENATOR BURLING:** Thank you, Mr. President. I didn't realize we were going for the colorful analogies quite so early, but I'm the one vote, and I just wanted to say that my vote was primarily cast in committee as a protest against whoever it was that thought it was a good idea to go around the moratorium passed by this legislature. I believe passionately in the moratorium. I believe in being careful about burning C & D, and I will recast my vote again as a protest against those who sought to short-circuit the moratorium which this legislature passed.

**SENATOR ODELL:** Thank you, Mr. President. I rise in support of the ITL although I, too, share the concern and have voted for the moratorium and other legislation that's restrictive of C & D burning. I did have an amendment to bring forward. I met with the Commissioner of DES and I met with a representative of the Governor's Office and I met with the Senate President. It would be my suggestion that we support the ITL here and then those who are here in the next session, bring forward legislation again, which will define things such as salvageable materials. It's a little more complicated than just saying pass this particular bill. So I would hope that we would stick with the ITL. I personally, would be committed to bringing forth that amendment that was drafted. It's not going to work this time, but I would bring that forward should I be here in the next term, as a separate piece of legislation. So my commitment stands, but I think the ITL here may be appropriate.

**SENATOR FULLER CLARK:** Yes, I have a question of Senator Morse. I mean Senator Odell, please. Thank you. Senator Odell, I think you

know that I serve on the study committee for C & D, and my concern is, do you have a commitment from the Commissioner of Environmental Services that there will be no attempt between now and when the moratorium, which has been extended, and the work of that committee is finished, to try to alter this definition in rules or any other way?

SENATOR ODELL: Senator Fuller Clark, I certainly cannot speak for the Commissioner. My sense of his determination on this matter as forty-eight hours ago, was that he was solidly determined to do something about the definitions, and to make sure that we abided by the rules that are presently there.

SENATOR FULLER CLARK: Follow up. Do you know what his position is, currently, on the moratorium?

SENATOR ODELL: I think that his position on the moratorium, I, again, cannot speak for him. I would assume that he would follow the law.

SENATOR FULLER CLARK: Thank you.

**The question is on the committee report of inexpedient to legislate.**

**A roll call was requested by Senator Larsen.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**The following Senators voted No: Burling, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**Yeas: 16 - Nays: 7**

**Committee report of inexpedient to legislate is adopted.**

**HB 1627**, relative to the assessment of open space land. Energy and Economic Development Committee. Inexpedient to legislate, Vote 4-1. Senator Burling for the committee.

SENATOR BURLING: Thank you, Mr. President. Mr. President, I move inexpedient to legislate on House Bill 1627. This bill eliminates a requirement that valuations of open space land be equalized for the purposes of assessing current use taxes. The current practice of equalizing current use values and market values seems to be working, without complaints from citizens. This bill also might lead to property taxes being raised for current use landowners. Please join the Energy and Economic Development Committee in voting inexpedient to legislate. Thank you, Mr. President.

**Committee report of inexpedient to legislate is adopted.**

**HB 1756**, relative to alternative regulation of small incumbent local exchange carriers. Energy and Economic Development Committee. Ought to pass, Vote 5-0. Senator Letourneau for the committee.

SENATOR LETOURNEAU: Thank you, Mr. President. I move House Bill 1627 (sic) ought to pass. This bill is a technical amendment and improvement passed by the House and the Senate and was signed into law by the Governor in June 2005. This bill allows small incumbent local exchange carriers to file and negotiate alternative regulation plans with the Public Utility Commission. Such plans will allow the small ILS more flexibly, compete in the rapidly changing and aggressively competi-

tive communications market. The results of alternate regulation plans should result in more customer choice. Please join the Economic and Development Committee in voting ought to pass. Thank you.

SENATOR BRAGDON: Just so the records clear, are we dealing with HB 1756 or 1627? The Senator's comments referenced 1627. I believe we're dealing with 1756.

SENATOR GATSAS (In the Chair): 1756.

SENATOR BRAGDON: The words were right, the numbers seemed not correct.

SENATOR LETOURNEAU: They got the wrong number on the comments. Let's see if they have the right ones here somewhere.

SENATOR MARTEL: The comments were right.

SENATOR LETOURNEAU: The comments were right; the reference is wrong.

**Adopted.**

**Ordered to third reading.**

**HB 1758**, classifying biodiesel as a renewable energy source. Energy and Economic Development Committee. Ought to pass with amendment, Vote 5-0. Senator Odell for the committee.

**Energy and Economic Development**

**April 19, 2006**

**2006-1892s**

**03/10**

### **Amendment to HB 1758**

Amend the title of the bill by replacing it with the following:

AN ACT classifying bio-oil, bio synthetic gas, and biodiesel as renewable energy sources and relative to taxation of renewable generation facilities.

Amend the bill by replacing all after the enacting clause with the following:

1 Limited Electrical Energy Producers; Definitions; Bio-Oil, Bio Synthetic Gas, and Biodiesel Added. Amend RSA 362-A:1-a, 1 to read as follows:

***1. "Bio-oil" means a liquid renewable fuel derived from vegetable oils, animal fats, wood, straw, forestry byproducts, or agricultural byproducts using noncombustion thermal, chemical, or biological processes, including, but not limited to, distillation, gasification, hydrolysis, or pyrolysis, but not including anaerobic digestion, composting, or incineration.***

***1-a. "Bio synthetic gas" means a gaseous renewable fuel derived from vegetable oils, animal fats, wood, straw, forestry byproducts, or agricultural byproducts using noncombustion thermal, chemical, or biological processes, including, but not limited to, distillation, gasification, hydrolysis, or pyrolysis, but not including anaerobic digestion, composting, or incineration.***

***1-b. "Biodiesel" means a renewable diesel fuel substitute that is composed of mono-alkyl esters of long chain fatty acids, is derived from vegetable oils or animal fats, and meets the requirements of the American Society for Testing and Materials (ASTM) specification D6751.***

**I-c.** “Cogeneration facility” means a facility which produces electric energy and other forms of useful energy, such as steam or heat, which are used for industrial, commercial, heating, or cooling purposes.

2 Limited Electrical Energy Producers; Definitions; Small Power Production Facility; Bio-Oil, Bio Synthetic Gas, and Biodiesel Added. Amend RSA 362-A:1-a, X to read as follows:

X. “Small power production facility” means a facility which produces electric energy solely by the use, as a primary energy source, of biomass, waste, renewable resources, **bio-oil, bio synthetic gas, biodiesel**, or any combination thereof and which has a power production capacity which, together with any other facility located at the same site, as determined by the commission, is not greater than 30 megawatts.

3 Renewable Energy; Bio-Oil, Bio Synthetic Gas, and Biodiesel Added. Amend RSA 374-F:3, V(f)(3) to read as follows:

(3) For purposes of subparagraph (f), “renewable energy” means geothermal energy, tidal or wave energy, wind energy, solar thermal energy, photovoltaic energy, landfill gas energy, hydro energy, biomass energy, **energy generated from bio-oil, bio synthetic gas, and biodiesel as defined in RSA 362-A:1-a, I, I-a, and I-b**, or combusted municipal waste energy where mercury emissions are reduced to an emission rate of 0.028 milligrams per dry standard cubic meter or less corrected to 7 percent oxygen by volume on a dry basis, or at least 85 percent control efficiency.

4 Land Use Planning; Utility Structures; Reference Changed. Amend RSA 674:30, IV to read as follows:

IV. Except for small power production facilities, as defined in RSA 362-A:1-a, X, and cogeneration facilities, as defined in RSA 362-A:1-a, [H] **I-c**, owned and operated by a New Hampshire franchised utility, small power production facilities and cogeneration facilities shall not be considered to be public utilities under this section and may not petition the public utilities commission for an exemption from the operation of any regulation under this subdivision.

5 Revenue Administration; Duties of Commissioner; Reference Added. Amend RSA 21-J:3, XIII to read as follows:

XIII. Equalize annually by May 1 the valuation of the property as assessed in the several towns, cities, and unincorporated places in the state including the value of property exempt pursuant to RSA 72:37, 72:37-b, 72:39-a, 72:62, 72:66, [and] 72:70, **and 72:74** by adding to or deducting from the aggregate valuation of the property in towns, cities, and unincorporated places such sums as will bring such valuations to the true and market value of the property, and by making such adjustments in the value of other property from which the towns, cities, and unincorporated places receive taxes or payments in lieu of taxes as may be equitable and just, so that any public taxes that may be apportioned among them shall be equal and just. In carrying out the duty to equalize the valuation of property, the commissioner shall follow the procedures set forth in RSA 21-J:9-a.

6 Property Tax Exemption; Adoption Procedure; Reference Added. Amend the introductory paragraph of RSA 72:27-a, I to read as follows:

I. Any town or city may adopt the provisions of RSA 72:28, RSA 72:29-a, RSA 72:35, RSA 72:37, RSA 72:37-b, RSA 72:38-b, RSA 72:39-a, RSA 72:62, RSA 72:66, [or], RSA 72:70, **or RSA 72:74** in the following manner: 7 Definitions; Reference Added. Amend RSA 72:29, VI to read as follows:

VI. For purposes of RSA 72:28, 29-a, 30, 31, 32, 33, 35, 36-a, 37, 37-a, 37-b, 38-a, 39-a, 62, 66, [and], 70, **and 74**, the ownership of real estate,



as expressed by such words as "owner," "owned," or "own," shall include those who have equitable title or the beneficial interest for life in the subject property.

8 Application for Tax Exemption; Reference Added. Amend the introductory paragraph of RSA 72:33, I to read as follows:

I. No person shall be entitled to the exemptions or tax credits provided by RSA 72:28, 29-a, 30, 31, 32, 35, 36-a, 37, 37-a, 37-b, 38-b, 39-b, 62, 66, [and] 70, **and 74** unless the person has filed with the selectmen or assessors, by April 15 preceding the setting of the tax rate, a permanent application therefor, signed under penalty of perjury, on a form approved and provided by the commissioner of revenue administration, showing that the applicant is the true and lawful owner of the property on which the exemption or tax credit is claimed and that the applicant was duly qualified upon April 1 of the year in which the exemption or tax credit is first claimed, or, in the case of financial qualifications, that the applicant is duly qualified at the time of application. The form shall include the following and such other information deemed necessary by the commissioner:

9 Appeal from Refusal to Grant; Reference Added. Amend RSA 72:34-a to read as follows:

72:34-a Appeal From Refusal to Grant Exemption, Deferral, or Tax Credit. Whenever the selectmen or assessors refuse to grant an applicant an exemption, deferral, or tax credit to which the applicant may be entitled under the provisions of RSA 72:23, 23-d, 23-e, 23-f, 23-g, 23-h, 23-i, 23-j, 23-k, 28, 29-a, 30, 31, 32, 35, 36-a, 37, 37-a, 37-b, 38-a, 38-b, 39-a, 39-b, 41, [42-] 62, 66, [or] 70, **or 74** the applicant may appeal in writing, on or before September 1 following the date of notice of tax under RSA 72:1-d, to the board of tax and land appeals or the superior court, which may order an exemption, deferral, or tax credit, or an abatement if a tax has been assessed.

10 New Subdivision; Exemption for Renewable Generation Facilities. Amend RSA 72 by inserting after section 72 the following new subdivision:

#### Exemption for Renewable Generation Facilities

72:73 Definition of Renewable Generation Facility. In this subdivision, "renewable generation facility" means a facility which produces electric energy for resale solely by the use, as a primary energy source, of geothermal, hydro, wind, solar, or biomass energy, or any combination thereof.

72:74 Exemption for Renewable Generation Facilities; Procedure for Adoption. Each city and town may adopt under RSA 72:27-a an exemption from the assessed value, for property tax purposes, for persons owning real property which is equipped with a renewable generation facility.

72:75 Application for Exemption. Applications for exemptions under RSA 72:74 shall be governed by the provisions of RSA 72:33, 72:34, and 72:34-a.

#### 72:76 Payment in Lieu of Taxes.

I. The owner of a renewable generation facility and the municipality in which the facility is located may enter into a voluntary agreement to make a payment in lieu of taxes.

II. When negotiating a voluntary agreement to make a payment in lieu of taxes, the owner and the municipality shall negotiate in good faith and give due consideration to all factors that may be relevant to determining a fair payment.

III. A renewable generation facility subject to a payment in lieu of taxes under this section shall remain subject to the laws governing the utility property tax under RSA 83-F.

IV. If a municipality that contains more than one school district receives a payment in lieu of taxes under this section, the proceeds shall be prorated to the districts in the same manner as local taxes are prorated to the districts.

V. The collection procedures in RSA 80 may be used to enforce a voluntary agreement to make a payment in lieu of taxes authorized by this section.

VI. No voluntary agreement entered into under this section shall be valid for more than 5 years without renewal by the parties.

11 Applicability. Nothing in this act shall affect any agreement entered into under RSA 362-A:6 between a qualifying facility and a city, town, or village district for payment in lieu of taxes which was in existence on March 1, 1997.

12 Effective Date.

I. Sections 5-11 of this act shall take effect April 1, 2006.

II. The remainder of this act shall take effect 60 days after its passage.

**2006-1892s**

### AMENDED ANALYSIS

This bill specifies that bio-oil, bio synthetic gas, and biodiesel are renewable energy sources for certain purposes.

This bill also allows municipalities to adopt a property tax exemption for property with a renewable generation facility and establishes procedures for the owners of such facilities to make payments in lieu of taxes.

**Recess.**

**Out of recess.**

SENATOR ODELL: Thank you, Mr. President. I move House Bill 1758 ought to pass with amendment. This bill specifies that biodiesel is a renewable energy source for certain purposes. The amendment has two parts. In the first, biodiesel and biosynthetic gas are classified as renewable energy sources. Adding these resources as renewable energy further diversifies the energy sources in the state. The second part allows municipalities to adopt a property tax exemption for the property with a renewable generation facility and establishes procedures for the owners of such facilities to make payments in lieu of taxes, which puts the greatest power in the hands of the select board or city council. Mr. President, I think that the last part of that actually relates to an amendment that Senator Burling will be bringing forward.

**The question is on adoption of the committee amendment.**

**A roll call was requested by Senator Clegg.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: None.**

**Yeas: 23 – Nays: 0**

**Amendment adopted.**

Senator Burling offered a floor amendment.

Sen. Burling, Dist. 5

Sen. Odell, Dist. 8

**May 2, 2006**  
**2006-2141s**  
**03/10**

### **Floor Amendment to HB 1758**

Amend the bill by replacing all after section 4 with the following:

5 Purpose. High energy demand and tight supply are pushing energy prices, including the prices of oil, natural gas, coal, and electricity, to new records and increasing price volatility. The 2002 New Hampshire Energy Plan recognizes “energy’s central role in fulfilling our priorities of economic growth, environmental quality, and a diverse energy supply” and recommends consideration of energy policies and programs that include encouraging the development of cleaner, affordable alternative energy sources; utilizing our plentiful renewable natural resources; and reducing our dependence on foreign oil. (New Hampshire Energy Plan at 1-1.) Such policies are supported by HJR 2 (1981), a resolution to establish a state policy on energy, and by the state’s Energy Policy set forth in RSA 378:37 “to meet the energy needs of the citizens and businesses of the state at the lowest reasonable cost while providing for the reliability and diversity of energy sources; the protection of the safety and health of the citizens, the physical environment of the state, and the future supplies of nonrenewable resources; and consideration of the financial stability of the state’s utilities.” In order to promote the state’s energy policies as well as the public interest, the general court believes that impediments to preserving, expanding, and improving existing renewable generation facilities in the state, and to developing new renewable generation facilities in the state, should be reduced. Furthermore, the general court believes that practices, procedures, and methodologies related to property assessment for the purposes of taxation can be such an impediment. Therefore, the general court finds that it is desirable to reauthorize each municipality to enter into voluntary agreements with the owners of renewable generation facilities located in the municipality to make payments in lieu of taxes. Such tax policy is appropriate because renewable generation facilities differ from other utility property and traditional generation facilities, such as fossil fuel and nuclear plants. Specifically, many renewable generation facilities are very small and some renewable technologies like wind and hydroelectric facilities are weather-dependent and not able to operate at full output throughout the year. Furthermore, unlike other manufacturing operations, renewable generation facilities are considered utility property and are required to include all generation production equipment as taxable property. Unlike regulated utilities, renewable generation facilities are unable to recover their tax-related expenses through regulated rates.

6 New Subdivision; Exemption for Renewable Generation Facilities. Amend RSA 72 by inserting after section 72 the following new subdivision:

#### **Payment in Lieu of Taxes for Renewable Generation Facilities**

72:73 Definition of Renewable Generation Facility. In this subdivision, “renewable generation facility” means a facility which produces electric energy for resale solely by the use, as a primary energy source, of renewable energy as defined in RSA 374-F:3, V(f)(3), including the land, all rights, easements, and other interests thereto, and all dams, buildings, structures, and other improvements situated thereon which are necessary or incidental to the production of power at the facility.

#### **72:74 Payment in Lieu of Taxes.**

1. The owner of a renewable generation facility and the governing body of the municipality in which the facility is located may, after a duly

noticed public hearing, may enter into a voluntary agreement to make a payment in lieu of taxes. A lessee of a renewable generation facility which is responsible for the payment of taxes on the facility may also enter into a voluntary agreement with the municipality in which the facility is located to make a payment in lieu of taxes, provided the lessee shall send by certified mail to the lessor written notice which shall state that the property of the lessor may be subject to RSA 80 should the lessee fail to make the payments required by the agreement. A copy of such notice shall be provided to the municipality in which the facility is located.

II. When negotiating a voluntary agreement to make a payment in lieu of taxes, the owner or lessee and the municipality shall negotiate in good faith and give due consideration to all factors that may be relevant to determining a fair payment.

III. A renewable generation facility subject to a voluntary agreement to make a payment in lieu of taxes under this section shall be subject to the laws governing the utility property tax under RSA 83-F pursuant to the agreement. Such agreement shall satisfy any tax liability relative to the renewable generation facility that otherwise exists under RSA 72. In the absence of a payment in lieu of taxes agreement, the renewable generation facility shall be subject to taxation under RSA 72.

IV. If a municipality that contains more than one school district receives a payment in lieu of taxes under this section, the proceeds shall be prorated to the districts in the same manner as local taxes are prorated to the districts, or in the case of a cooperative school district between the city or town and pre-existing school district.

V. The collection procedures in RSA 80 shall be used to enforce a voluntary agreement to make a payment in lieu of taxes authorized by this section.

VI. If a municipality enters into a voluntary payment in lieu of taxes agreement with an owner, or a lessee responsible for payment of taxes, of a renewable generation facility, the municipality, upon the request of the owner, or a lessee responsible for payment of taxes, of any other renewable generation facility located within the municipality, shall offer a comparable agreement to the owner or lessee of such facility.

VII. No voluntary agreement entered into under this section shall be valid for more than 5 years; however, any such agreement may be renewed or amended and restated for any number of consecutive periods of 5 years or less.

7 New Section; Limited Electrical Energy Producers; Payment in Lieu of Tax Agreements for Renewable Generation Facilities. Amend RSA 362-A by inserting after section 6 the following new section:

362-A:6-a Payment in Lieu of Tax Agreements for Renewable Generation Facilities. The owner, or a lessee responsible for payment of taxes, of a renewable generation facility and the municipality in which the facility is located may enter into a voluntary agreement to make a payment in lieu of taxes, pursuant to RSA 72:74.

8 Revenue Administration; Duties of Commissioner; Reference Added. Amend RSA 21-J:3, XIII to read as follows:

XIII. Equalize annually by May 1 the valuation of the property as assessed in the several towns, cities, and unincorporated places in the state including the value of property exempt pursuant to RSA 72:37, 72:37-b, 72:39-a, 72:62, 72:66, and 72:70, **and property which is the subject of a payment in lieu of taxes under RSA 72:74** by adding to or deducting from the aggregate valuation of the property in towns,

cities, and unincorporated places such sums as will bring such valuations to the true and market value of the property, and by making such adjustments in the value of other property from which the towns, cities, and unincorporated places receive taxes or payments in lieu of taxes as may be equitable and just, so that any public taxes that may be apportioned among them shall be equal and just. In carrying out the duty to equalize the valuation of property, the commissioner shall follow the procedures set forth in RSA 21-J:9-a.

9 Applicability. Nothing in sections 5-9 of this act shall affect any existing agreement entered into under the prior RSA 362-A:6 between a qualifying facility and a city, town, or village district for payment in lieu of taxes. Sections 5-9 of this act shall apply to tax years commencing on or after April 1, 2006.

10 Effective Date.

I. Sections 5-9 of this act shall take effect April 1, 2006.

II. The remainder of this act shall take effect 60 days after its passage.

**2006-2141s**

### AMENDED ANALYSIS

This bill specifies that bio-oil, bio synthetic gas, and biodiesel are renewable energy sources for certain purposes.

This bill also authorizes the governing body of a municipality to enter into a payment in lieu of taxes agreement with the owner or lessee of a renewable generation facility.

SENATOR BURLING: Thank you, Mr. President. Mr. President, I move the adoption of the floor amendment 2141s.

SENATOR GATSAS (In the Chair): 2141s has been proposed. Will you speak to the amendment as it's being passed out?

SENATOR BURLING: Thank you, Mr. President. This amendment brings together a concept which the committee felt was very important and that is to authorize local communities, where appropriate, to enter into payment in lieu of tax agreements with the developers of renewable energy projects. It is legislation which authorizes communities to enter into these arrangements. The language is very carefully drafted to make it clear that the creation of a payment in lieu of tax agreement is a method of fulfilling the obligation to pay real property taxes. That fulfillment of obligation continues as long as the payments under the agreement are actually made. If, at any point, there is a termination of payments by the project owner or lessee, then the obligation to pay real estate taxes is...it's not instantly reinstated, it's never been suspended. What we think is that this is going to be an opportunity to encourage local communities to make decisions about how to encourage renewable energy products within their boundaries. And, Senator Odell and myself offer this and urge your support of it.

**Recess.**

**Out of recess.**

### PARLIAMENTARY INQUIRY

SENATOR BURLING: Parliamentary inquiry?

SENATOR GATSAS (In the Chair): Senator Burling.

SENATOR BURLING: If I wished to make a minor correction in this floor amendment, would I now withdraw the amendment or move to special order or table?

SENATOR GATSAS: Somebody else can make the motion to table, Senator, but you just spoke, so somebody else has to make that.

### **MOTION TO TABLE**

Senator Larsen moved to have HB 1758 laid on the table.

**Adopted.**

### **LAI D ON THE TABLE**

**HB 1758**, classifying biodiesel as a renewable energy source.

SENATOR GATSAS (In the Chair): Senator Burling, we have the bill in possession that you were looking for reconsideration.

### **MOTION OF RECONSIDERATION**

Senator Burling, having voted with the prevailing side, moved reconsideration of **HB 1752**, requiring notice regarding the classifications of employee and independent contractor, whereby it was ordered to third reading and final passage.

**HB 1752**, requiring notice regarding the classifications of employee and independent contractor.

**The question is on the motion of reconsideration.**

**A roll call was requested by Senator Larsen.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Burling, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**The following Senators voted No: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**Yeas: 7 - Nays: 16**

**Motion failed.**

SENATOR LARSEN (Rule #44): Again today, I would like to point out that, as we do roll calls, Senator D'Allesandro has an excused absence for the day. Thank you.

**HCR 25**, urging the United States to withdraw funding for the United Nations if the United Nations adopts a resolution in violation of the United States Constitution. Energy and Economic Development Committee. Inexpedient to legislate, Vote 3-2. Senator Bragdon for the committee.

SENATOR BRAGDON: Thank you, Mr. President. Me and my peeps request this be tabled.

### **MOTION TO TABLE**

Senator Bragdon moved to have HCR 25 laid on the table.

**Adopted.**

### **LAI D ON THE TABLE**

**HCR 25**, urging the United States to withdraw funding for the United Nations if the United Nations adopts a resolution in violation of the United States Constitution.

Senators Barnes, Boyce and Roberge are in opposition to the motion to lay HCR 25 on the table.

**HB 1216**, relative to the sale of unpasteurized milk. Environment and Wildlife Committee. Inexpedient to legislate, Vote 3-2. Senator Eaton for the committee.

**SENATOR EATON:** Thank you. I move House Bill 1216 inexpedient to legislate. This legislation would have allowed unpasteurized milk and milk products to be sold in various establishments like restaurants, schools or hospitals, as long as the product was in a properly labeled container. The prime sponsor and the Department of Environmental Services do not support the bill as it was amended by the House. The original version of legislation would have allowed the consumers to purchase unpasteurized milk from a producer, like a farmer, as long as it was clearly labeled as such. The committee feels the legislation is unnecessary as current law already allows for the sale of unpasteurized milk between the final consumer and the producer. And at the public hearing, the Farm Bureau indicated they would have no objections if neither version of legislation were passed.

**Committee report of inexpedient to legislate is adopted.**

**HB 1317**, relative to the control or eradication of exotic aquatic weeds and requiring a review by the department of agriculture, markets, and food, the department of environmental services, the fish and game department, and the department of resources and economic development, evaluating the current permitting process for special permits for aquatic applications of pesticides to control or eradicate exotic aquatic weeds and making recommendations to improve the process. Environment and Wildlife Committee. Ought to pass, Vote 5-0. Senator Johnson for the committee.

**SENATOR JOHNSON:** Thank you, Mr. President. I move House Bill 1317 ought to pass. The control of exotic aquatic weeds is of great importance to the state's environment and economy. This legislation will require the Department of Agriculture, the Department of Environmental Services, the Fish and Game Department, and the Department of Resources and Economic Development to work together to make recommendations to improve the permitting process for the application of pesticides to control exotic aquatic weeds. Their recommendations will be given to the Exotic Aquatic Weeds Committee, and with good future planning, exotic aquatic weeds could be eradicated sooner than later. The Environment and Wildlife Committee ask for your support on the motion of ought to pass. Thank you, Mr. President.

**Adopted.**

**Ordered to third reading.**

**HB 1373**, establishing a commission to study ways to encourage the proper recycling and disposal of grease trap wastes and to determine ways to develop additional disposal capacity. Environment and Wildlife Committee. Ought to pass, Vote 5-0. Senator Barnes for the committee.

**MOTION TO TABLE**

Senator Barnes moved to have HB 1373 laid on the table.

**Adopted.**

**LAIID ON THE TABLE**

**HB 1373**, establishing a commission to study ways to encourage the proper recycling and disposal of grease trap wastes and to determine ways to develop additional disposal capacity.

**HB 1220**, establishing a committee to study a statewide review of all unanticipated fatalities and serious injury involving incapacitated adults and individuals 60 or older. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 4-1. Senator Kenney for the committee.

**Senate Executive Departments and Administration**

**April 19, 2006**

**2006-1929s**

**01/05**

**Amendment to HB 1220**

Amend subparagraph I(b) of section 2 of the bill by replacing it with the following:

(b) Two members of the senate, appointed by the president of the senate.

SENATOR KENNEY: Thank you, Mr. President. I move ought to pass with amendment on HB 1220. Elder abuse does occur in this state and House Bill 1220 will help us to address this issue. Under House Bill 1220, the study committee is not being asked to conduct the study rather than determine how a statewide study would be conducted. The committee amended the bill by reducing the Senate membership from three members to two, and recommends ought to pass with amendment on House Bill 1220. Thank you, Mr. President.

**MOTION TO TABLE**

Senator Flanders moved to have HB 1220 laid on the table.

**Adopted.**

**LAIID ON THE TABLE**

**HB 1220**, establishing a committee to study a statewide review of all unanticipated fatalities and serious injury involving incapacitated adults and individuals 60 or older.

**HB 1273**, relative to the disposition and retention of municipal records and legalizing the September 13, 2005 special meeting of the town of Brookline. Executive Departments and Administration Committee. Ought to pass, Vote 4-0. Senator Barnes for the committee.

SENATOR BARNES: Thank you, Mr. President. I move ought to pass on 1273, which authorizes the committee governing the disposition of municipal records to designate the office responsible for the retention of each type of record. The bill makes a technical change to the law so that municipal ordinances are recognized and clarifies three retention schedules while adding one retention schedule relative to intent to excavate. House Bill 1273 also legalizes the September 13, 2005 town meeting in Brookline. The official notice of the town meeting was published a day earlier than it should have been. Legislation is needed in order to legitimize the meeting. The committee recommends ought to pass on House Bill 1273, and the committee would appreciate your help on it, because you're going to see two or three more amendments coming forward that Senator Hassan...

SENATOR GOTTESMAN: Thank you, Mr. President. I rise in support of this ought to pass motion. Brookline is one of the towns in my district. They have contacted me and asked for your help in trying to correct something which was an oversight. I know that there are several other towns who are coming forth, and I know that time is of the essence of



having this approval. So, if it is at all possible, Mr. President, I would ask if there would be a possibility of a third reading at the conclusion of the submission of all of these amendments?

SENATOR GATSAS (In the Chair): Senator, we're working on that.

SENATOR GOTTESMAN: Thank you.

Senator Hassan offered a floor amendment.

Sen. Hassan, Dist. 23

Sen. Barnes, Dist. 17

**May 3, 2006**

**2006-2167s**

**06/09**

### **Floor Amendment to HB 1273**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the disposition and retention of municipal records, legalizing the September 13, 2005 special meeting of the town of Brookline, legalizing the March 14, 2006 vote by the town of East Kingston to approve a bond financing a new police station, and legalizing the March 2006 Article 2 petitioned warrant article of the town of Sandown.

Amend the bill by inserting after section 6 the following and renumbering the original section 7 to read as 9:

7 Bond Approval. The vote of the town of East Kingston at its March 14, 2006 annual town meeting approving the bond financing a new police station is hereby legalized, ratified, and confirmed.

8 Petitioned Warrant Article Approved. The Article 2 petitioned warrant article on the March, 2006 warrant of the town of Sandown is hereby legalized, ratified, and confirmed.

**2006-2167s**

### **AMENDED ANALYSIS**

This bill:

I. Authorizes the committee to govern the disposition of municipal records to designate the office responsible for the retention of each type of record created for the municipality and changes certain retention schedules.

II. Legalizes the September 13, 2005 special meeting of the town of Brookline.

III. Legalizes the March 14, 2006 vote by the town of East Kingston to approve a bond financing a new police station.

IV. Legalizes the March, 2006 Article 2 petitioned warrant article of the town of Sandown.

SENATOR HASSAN: Just for further amendment, Mr. Chair. I offer a floor amendment 2167s.

SENATOR GATSAS: 2167s has been proposed. Will you speak to the amendment as it's being passed out please?

SENATOR HASSAN: Certainly, and thank you. This amendment does two things. It also ratifies a bond approval, a vote by the town of East Kingston, at its March 14, 2006 annual town meeting, which approved bond financing for a new police station. The town, through oversight, published its notice for the public hearing on that bond one day late. They included the first day in their counting, and bond counsel realized

it after the town did approve the bond by a 2/3 vote. And additionally, this amendment ratifies, legalizes and confirms the Article II, petition warrant Article on the March 2006 warrant of the town of Sandown, which also had a technical problem with that warrant article. As I understand it, a reference in the warrant article to the RSA was an incorrect reference and they caught that after the 2/3 vote was achieved. So this amendment just asks us to legalize, confirm and ratify two other actions by our towns, and if we can get it over the House today, then they can move forward with their bond processing. Thank you.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

### **SUSPENSION OF THE RULES**

Senator Clegg moved that the Senate suspend all the necessary rules to send **HB 1273** to the late session, during the early session, and to vote third reading passage by this motion.

**Adopted by the necessary 2/3 vote.**

### **Third Reading and Final Passage**

**HB 1273**, relative to the disposition and retention of municipal records and legalizing the September 13, 2005 special meeting of the town of Brookline.

**HB 1477**, implementing the federal Law Enforcement Officers Safety Act of 2004. Executive Departments and Administration Committee. Ought to pass, Vote 3-0. Senator Kenney for the committee.

SENATOR KENNEY: Thank you, Mr. President. I move ought to pass on House Bill 1477. House Bill 1477 is enabling legislation that is needed in order to allow retired police officers to obtain a license authorizing them to carry a concealed weapon in all fifty states. All retired officers who apply for such a license will be screened on an annual basis by state or municipal authorities before receiving the license. The New Hampshire Police Standards and Training is prepared to provide the training necessary under House Bill 1477 and the committee recommends ought to pass and asks for your support. Thank you, Mr. President. And if I could offer a roll call as well.

**The question is on the adoption of the committee report of ought to pass.**

**A roll call was requested by Senator Kenney.**

**Seconded by Senator Letourneau.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: None.**

**Yeas: 23 - Nays: 0**

**Adopted.**

**Ordered to third reading.**

**HB 1204**, relative to human immunodeficiency virus education, prevention and control. Health and Human Services Committee. Ought to pass, Vote 5-0. Senator Bragdon for the committee.

SENATOR BRAGDON: Thank you, Mr. President. I move HB 1204 ought to pass. HB 1204 is a request of the Department of Health and Human Services and will bring New Hampshire laws up-to-date with current practice standards which have shown to eliminate the risk of transmission from one person to another for HIV and Hepatitis B. Current state law, which requires the persons with HIV or AIDS appear before a panel, is inconsistent with federal confidentiality and privacy policies requiring that persons with HIV or AIDS not be identified in any way. In short, the New Hampshire statute is not needed and the committee recommends ought to pass. Thank you, Mr. President.

**Recess.**

**Out of recess.**

Senator Clegg offered a floor amendment.

Sen. Clegg, Dist. 14

**May 4, 2006**  
**2006-2191s**  
**01/09**

#### **Floor Amendment to HB 1204**

Amend the title of the bill by replacing it with the following:

AN ACT relative to human immunodeficiency virus education, prevention, and control and relative to the powers of state government in the event of an incident or outbreak of communicable disease.

Amend the bill by replacing all after section 2 with the following:

3 Communicable Disease; Closure and Decontamination. Amend RSA 141-C:16-a to read as follows:

141-C:16-a **Closure**; Decontamination.

**I. The commissioner, with the written approval of the governor,** may close, direct, and compel the evacuation ~~[of or decontamination of any facility where there is reasonable cause to believe that there is a danger to the public health. The commissioner may also decontaminate, or cause to be decontaminated, or destroy any material of which there is reasonable cause to believe may present imminent danger to the public health]~~ **and decontamination of any building located within the state that is accessible to the public, such as businesses, primary and secondary schools, and universities, regardless of whether publicly or privately owned, when there is reasonable cause to believe the building may present an imminent danger to the public health due to an incident or outbreak of communicable disease. The commissioner may also cause any material located within or on the grounds of such building to be decontaminated or destroyed when there is reasonable cause to believe that the material may present imminent danger to the public health.** Destruction of any material under this chapter shall be considered a taking of private property and shall be subject to the compensation provisions of RSA 4:46.

**II. The closure of any buildings pursuant to this section shall be by the least restrictive means possible and the commissioner shall close only those buildings that are reasonably believed to pose a threat to the health of the public.**

***III. The owner of any building or portion of a building that is ordered closed in accordance with this section may request a hearing in the superior court to contest that order. The superior court shall schedule and hold a hearing and issue a decision within 5 working days of the court's receipt of the request for a hearing. At the hearing, the burden of proof shall be on the commissioner to prove by a preponderance of the evidence that closure of the building is reasonably necessary to protect the health of the public.***

4 New Section; Communicable Disease; Cancellation of Events. Amend RSA 141-C by inserting after section 16-a the following new section:

141-C:16-b Cancellation of Events. The commissioner, with the written approval of the governor, may order the cancellation of public gatherings and events within the state, or in specific geographic areas of the state, as is deemed necessary to prevent the spread of disease; provided, that under no circumstances shall the constitutional rights of assembly be abrogated in any emergency situation.

5 New Sections; Communicable Disease; Custody; Rationing; Cost of Items. Amend RSA 141-C by inserting after section 17-a the following new sections:

141-C:17-b Custody; Rationing. If there is a statewide or regional shortage or threatened shortage of any anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, or mechanical equipment such as ventilators, the commissioner, with the written approval of the governor, may control, restrict, and ration the use, sale, dispensing, distribution, or transportation of such agents as necessary to best protect the health, safety, and welfare of the people of this state. In making rationing or other supply and distribution decisions, the commissioner may determine the preference and priority for distribution of such agents, such as giving preference to health care providers and emergency response personnel. The commissioner, with the written approval of the governor, shall have the discretion to take custody of all supplies of specific anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, or mechanical equipment such as ventilators, existing within the state to ensure that such agents are distributed and utilized appropriately. Any person who is aggrieved by a decision made by the commissioner and approved by the governor with respect to the restriction or rationing of the use, sale, dispensing, distribution, or transportation of such agents, and mechanical equipment such as ventilators may request a hearing in the superior court to contest that order. Hearings held under this section shall conform to the provisions of RSA 141-C:16-a, III. Multiple requests for hearings under this section may be consolidated into one hearing if the underlying facts are similar, the court deems such consolidation to be appropriate, and the court determines that such consolidation will adequately satisfy the due process rights of the persons who requested a hearing.

141-C:17-c Certain Cost Required. In the event of an outbreak of communicable disease, the commissioner shall pay to the retailer the Medicaid rate of any items to be acquired by the department, the rate as it was the day prior to the outbreak of the communicable disease.

6 New Sections; Communicable Disease; Ethics Committee Established. Amend RSA 141-C by inserting after section 23 the following new sections:

141-C:24 Ethics Committee.

I. There is hereby established an ethics committee to offer advice to the commissioner relative to the ethical issues that may be identified in the course of planning for, and responding to, outbreaks of communicable disease.

II. The committee shall consider the ethical implications of any of the powers that may be exercised by the commissioner under the provisions of this chapter including, but not limited to, the confiscation, distribution, and rationing of anti-toxins, serums, vaccines, immunizing agents, antibiotics, and other pharmaceutical agents, and mechanical equipment such as ventilators; the issuance and enforcement of orders of isolation, quarantine, medical examination, and medical treatment; and issues relative to information sharing and confidentiality.

III. The members of the committee shall be as follows:

- (a) The director of the division of public health services.
- (b) The state epidemiologist.
- (c) The attorney general, or designee.
- (d) A representative of a municipal department of public health, appointed by the commissioner.
- (e) A representative from a college or university public health program, appointed by the commissioner.
- (f) A chief of police or a police officer of a local police department, appointed by the New Hampshire Association of Chiefs of Police.
- (g) A chief of a local fire department, appointed by the New Hampshire Association of Fire Chiefs.
- (h) A physician, licensed under RSA 329, appointed by the New Hampshire Medical Society.
- (i) The commissioner of the department of safety, or designee.
- (j) A member of a fire department, appointed by The New Hampshire Professional Firefighters Association.
- (k) A representative of a hospital, appointed by the New Hampshire Hospital Association.
- (l) A county representative, appointed by the New Hampshire Association of Counties.

IV. The commissioner shall appoint a member of the committee to act as chairperson. The committee shall meet initially within 30 days of the effective date of this section and then as regularly as the chairperson shall direct.

V. The commissioner may at any time direct questions to the committee or request guidance on ethical issues. In addition, the committee shall develop proposed guidelines and protocols relative to any ethical issues that it identifies.

VI. The committee shall be solely advisory in nature and any guidance, guidelines, or protocols issued by the committee shall not be binding on the commissioner.

141:25 No Conflict With Emergency Management Powers. Nothing in this chapter shall be construed to limit or restrict the exercise of the governor's emergency management powers under RSA 4:45 – RSA 4:47.

7 Effective Date.

I. Sections 1 and 2 of this act shall take effect 60 days after its passage.

II. The remainder of this act shall take effect upon its passage.

**2006-2191s**

#### AMENDED ANALYSIS

This bill repeals certain provisions of the law relative to human immunodeficiency virus education, prevention, and control.

This bill also authorizes the commissioner of the department of health and human services, with the written approval of the governor, to ration and prioritize certain pharmaceutical agents in the event of a shortage during an incident or outbreak of communicable disease. Under this

bill, the commissioner, with the written approval of the governor, has the power to close public places during an incident, etc. This bill establishes a committee to advise the commissioner in addressing ethical issues under RSA 141-C.

SENATOR CLEGG: I move floor amendment 2191.

SENATOR GATSAS: Floor amendment 2191 is being proposed. Will you speak to your amendment as it's being passed out?

SENATOR CLEGG: Yes. Thank you, Mr. President. This is a mirror of a bill the Senate's already passed. It discusses what the government can and cannot do in case of a pandemic in the state of New Hampshire. This bill is one that we had put on the table so we could address a few more...a few more concerns about pharmacies and how they'd be reimbursed. It is exactly as we passed it. Once again, the House needs to see the light, and we'll send it back with your approval. Thank you.

SENATOR LARSEN: While we didn't have a good long time to discuss this amendment, our review of it is that it is in fact one which we had worked on hard before it left the Senate. It has been reviewed by all who are affected by it in the departments and in the executive branch, and it is a bill which we want to reaffirm our support for.

SENATOR MARTEL: Thank you very much, Mr. President. I wish to thank Senator... Now I go blank, right? Clegg, yes, you're right. I'm looking right at his name. Senator Clegg for bringing this forward, because this does really plug up a lot of holes, okay, that were there before, and we needed to make sure that this legislation passed. Thank you very much, Mr. President.

**The question is on adoption of the floor amendment.**

**A roll call was requested by Senator Clegg.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: None.**

**Yeas: 23 - Nays: 0**

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1555**, establishing a commission to investigate cost drivers in providing health care. Health and Human Services Committee. Ought to pass with amendment, Vote 5-0. Senator Fuller Clark for the committee.

**Health and Human Services**

**April 18, 2006**

**2006-1883s**

**01/09**

### **Amendment to HB 1555**

Amend paragraph I of section 2 of the bill by inserting after subparagraph (n) the following new subparagraphs:

(o) A representative of the Professional Firefighters of New Hampshire, appointed by such association.

(p) A representative of the New Hampshire Health Care Association, appointed by such association.

**SENATOR FULLER CLARK:** Thank you very much, Mr. President. I move House Bill 115 (sic) ought to pass with amendment. While people may be aware of the price of healthcare or the level of reimbursement for public assistance, the actual costs of healthcare are not as well-known or understood. House Bill 1555 will bring together a broad mix of talented people, including business people, to look at the cost drivers in this state with regard to healthcare. The committee amended the bill to add a member from the New Hampshire Health Care Association and the Professional Fire Fighters of New Hampshire. House Bill 1555 will create a forum to discuss and explore these important issues, and the committee recommends ought to pass with amendment. Thank you, Mr. President.

### **MOTION TO TABLE**

Senator Flanders moved to have HB 1555 laid on the table.

**Adopted.**

### **LAI D ON THE TABLE**

**HB 1555**, establishing a commission to investigate cost drivers in providing health care.

**HB 1687**, extending certain studies and adding a certain duty relative to pharmacy reimbursement. Health and Human Services Committee. Ought to pass, Vote 4-0. Senator Kenney for the committee.

**SENATOR KENNEY:** Thank you, Mr. President. I move House Bill 1687 ought to pass. The legislation extends the reporting date so that comprehensive mental health plan and the New Hampshire Task Force on Deafness and Hearing Loss. The comprehensive mental health plan currently involves about sixty to seventy people who are mapping out a pre-plan planning and implementation strategy and it is important that the collective work be allowed to continue. The New Hampshire Task Force on Deafness and Hearing Loss would also see its deadline extended under the bill so that it can, too...so that it, too, can continue its work with the New Hampshire Police Standards and Training Office. The bill also extends the reporting dates for other committees that need the additional time, and asks that the study committee looking at the pharmacy reimbursement to examine a closed pharmacy network by region. The committee recommends ought to pass on House Bill 1687. Thank you, Mr. President.

### **MOTION TO TABLE**

Senator Bragdon moved to have HB 1687 laid on the table.

**Adopted.**

### **LAI D ON THE TABLE**

**HB 1687**, extending certain studies and adding a certain duty relative to pharmacy reimbursement.

**HB 1763**, extending a committee and adding certain duties relative to pharmacy reimbursement. Health and Human Services Committee. Ought to pass, Vote 5-0. Senator Martel for the committee

**MOTION TO TABLE**

Senator Martel moved to have HB 1763 laid on the table.

**Adopted.**

**LAIID ON THE TABLE**

**HB 1763**, extending a committee and adding certain duties relative to pharmacy reimbursement.

**HB 1764**, relative to the committee to study medicaid reimbursement rates for pharmacy providers. Health and Human Services Committee. Ought to pass, Vote 5-0. Senator Martel for the committee.

SENATOR MARTEL: Thank you very much, Mr. President. I move House Bill 1764 ought to pass. The study committee has met on various occasions and been provided with documents many inches thick. While there are broad ideas for change, there is no agreement on the exact number that should be reimbursed. The committee would like more time to consider the issues. House Bill 1764 also asks that the study committee to consider the variable reimbursement rate and it would pay a higher rate to pharmacies on a larger percentage of Medicaid clients. The recommendations being considered have great potential and the committee recommends ought to pass, and I thank you very much, Mr. President.

**Adopted.**

**Ordered to third reading.**

**HB 506**, including employees of charitable organizations under the protection of the state law against discrimination. Internal Affairs Committee. Ought to pass with amendment, Vote 5-0. Senator Hassan for the committee.

**Sen. Hassan, Dist. 23**

**April 19, 2006**

**2006-1910s**

**08/09**

**Amendment to HB 506**

Amend RSA 354-A:2, VII as inserted by section 1 of the bill by replacing it with the following:

VII. "Employer" does not include any employer with fewer than 6 persons in its employ, an exclusively social club, or a fraternal or religious association or corporation, if such club, association, or corporation is not organized for private profit, as evidenced by declarations filed with the Internal Revenue Service. Entities claiming to be religious organizations may file a good faith declaration with the human rights commission that the organization is an organization affiliated with, or its operations are in accordance with the doctrine and teaching of a recognized and organized religion to provide evidence of their religious status. "Employer" shall include the state and all political subdivisions, boards, departments, and commissions thereof.

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect July 1, 2006.

SENATOR HASSAN: Thank you, Mr. President. I move House Bill 506 ought to pass with amendment. This bill includes employees of charitable organizations under the protection of the state's anti-discrimination laws. Currently, employees of entities such as Exeter Hospital, must travel to Boston to pursue claims of federal discrimination law as they



are not covered by our state laws. Similarly, non-profit employers have to travel to Boston to defend these claims. This bill exempts employers who are exclusive social, fraternal, or religious organizations. The committee amendment allows for entities claiming to be religious organizations to file a good faith declaration with the Human Rights Commission, that the organization is affiliated with or its operations are in accordance with the doctrine and the teaching of a recognized and organized religion to provide evidence of their religious status. Please join the Internal Affairs Committee and vote House Bill 506 ought to pass with amendment. Thank you. And, Mr. President, if I may, I'd like to speak to it?

**SENATOR GATSAS (In the Chair):** You may continue.

**SENATOR HASSAN:** Thank you. I understand that some folks have raised a few questions about this bill and I thought I'd take a moment as a member of the committee to indicate that only two people appeared in opposition to this bill at committee. And they came with a very specific concern, which the committee amendment addresses. And the concern was that certain religious organizations don't file declarations of non-profit intent with the IRS, so they wanted to find a way that they could prove that they were religious organizations, exclusive religious organizations, and therefore, that they could be exempt from the law as the House passed the bill. So we addressed that concern in the committee amendment. Currently what happens is any non-profit entity in this state of twenty-five or more employees is covered already by federal anti-discrimination laws, but they have to travel to Boston to litigate these claims. The House took this bill last year, retained it, studied it hard, passed it by a voice vote over in the House after making this amendment concerning religious organizations, and came to us with a bill that will allow this state's Human Rights Commission to have jurisdiction over employee/employer disputes concerning discrimination. And I ask for your support. I think it's a long overdue bill. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

### **MOTION TO REMOVE FROM THE TABLE**

Senator Burling moved to have HB 1758 taken from the table.

**Adopted.**

**HB 1758**, classifying biodiesel as a renewable energy source.

Senator Burling withdrew his floor amendment (#2141).

**SENATOR GATSAS (In the Chair):** Are you withdrawing your floor amendment?

**SENATOR BURLING:** I am, and I would like to offer another.

**SENATOR GATSAS (In the Chair):** Okay, if you can just hold one second.

**SENATOR BURLING:** Mr. President, I believe 2141s is coming...has been withdrawn.

**SENATOR GATSAS (In the Chair):** 2196 is what you're proposing?

**SENATOR BURLING:** That is correct, Mr. President. Thank you.

Senator Burling offered a floor amendment.

Sen. Burling, Dist. 5

Sen. Odell, Dist. 8

**May 4, 2006**

**2006-2196s**

**03/10**

### **Floor Amendment to HB 1758**

Amend the bill by replacing all after section 4 with the following:

5 Purpose. High energy demand and tight supply are pushing energy prices, including the prices of oil, natural gas, coal, and electricity, to new records and increasing price volatility. The 2002 New Hampshire Energy Plan recognizes “energy’s central role in fulfilling our priorities of economic growth, environmental quality, and a diverse energy supply” and recommends consideration of energy policies and programs that include encouraging the development of cleaner, affordable alternative energy sources; utilizing our plentiful renewable natural resources; and reducing our dependence on foreign oil. (New Hampshire Energy Plan at 1-1.) Such policies are supported by HJR 2 (1981), a resolution to establish a state policy on energy, and by the state’s Energy Policy set forth in RSA 378:37 “to meet the energy needs of the citizens and businesses of the state at the lowest reasonable cost while providing for the reliability and diversity of energy sources; the protection of the safety and health of the citizens, the physical environment of the state, and the future supplies of nonrenewable resources; and consideration of the financial stability of the state’s utilities.” In order to promote the state’s energy policies as well as the public interest, the general court believes that impediments to preserving, expanding, and improving existing renewable generation facilities in the state, and to developing new renewable generation facilities in the state, should be reduced. Furthermore, the general court believes that practices, procedures, and methodologies related to property assessment for the purposes of taxation can be such an impediment. Therefore, the general court finds that it is desirable to reauthorize each municipality to enter into voluntary agreements with the owners of renewable generation facilities located in the municipality to make payments in lieu of taxes. Such tax policy is appropriate because renewable generation facilities differ from other utility property and traditional generation facilities, such as fossil fuel and nuclear plants. Specifically, many renewable generation facilities are very small and some renewable technologies like wind and hydroelectric facilities are weather-dependent and not able to operate at full output throughout the year. Furthermore, unlike other manufacturing operations, renewable generation facilities are considered utility property and are required to include all generation production equipment as taxable property. Unlike regulated utilities, renewable generation facilities are unable to recover their tax-related expenses through regulated rates.

6 New Subdivision; Exemption for Renewable Generation Facilities. Amend RSA 72 by inserting after section 72 the following new subdivision:

Payment in Lieu of Taxes for Renewable Generation Facilities

72:73 Definition of Renewable Generation Facility. In this subdivision, “renewable generation facility” means a facility which produces electric energy for resale solely by the use, as a primary energy source, of renewable energy as defined in RSA 374-F:3, V(f)(3), including the land,

all rights, easements, and other interests thereto, and all dams, buildings, structures, and other improvements situated thereon which are necessary or incidental to the production of power at the facility.

72:74 Payment in Lieu of Taxes.

I. The owner of a renewable generation facility and the governing body of the municipality in which the facility is located may, after a duly noticed public hearing, enter into a voluntary agreement to make a payment in lieu of taxes. A lessee of a renewable generation facility which is responsible for the payment of taxes on the facility may also enter into a voluntary agreement with the municipality in which the facility is located to make a payment in lieu of taxes, provided the lessee shall send by certified mail to the lessor written notice which shall state that the property of the lessor may be subject to RSA 80 should the lessee fail to make the payments required by the agreement. A copy of such notice shall be provided to the municipality in which the facility is located.

II. A renewable generation facility subject to a voluntary agreement to make a payment in lieu of taxes under this section shall be subject to the laws governing the utility property tax under RSA 83-F pursuant to the agreement. Such agreement shall satisfy any tax liability relative to the renewable generation facility that otherwise exists under RSA 72. In the absence of a payment in lieu of taxes agreement, the renewable generation facility shall be subject to taxation under RSA 72.

III. If a municipality that contains more than one school district receives a payment in lieu of taxes under this section, the proceeds shall be prorated to the districts in the same manner as local taxes are prorated to the districts, or in the case of a cooperative school district between the city or town and pre-existing school district.

IV. The collection procedures in RSA 80 shall be used to enforce a voluntary agreement to make a payment in lieu of taxes authorized by this section.

V. If a municipality enters into a voluntary payment in lieu of taxes agreement with an owner, or a lessee responsible for payment of taxes, of a renewable generation facility, the municipality, upon the request of the owner, or a lessee responsible for payment of taxes, of any other renewable generation facility located within the municipality, shall offer a comparable agreement to the owner or lessee of such facility.

VI. No voluntary agreement entered into under this section shall be valid for more than 5 years; however, any such agreement may be renewed or amended and restated for any number of consecutive periods of 5 years or less.

7 New Section; Limited Electrical Energy Producers; Payment in Lieu of Tax Agreements for Renewable Generation Facilities. Amend RSA 362-A by inserting after section 6 the following new section:

362-A:6-a Payment in Lieu of Tax Agreements for Renewable Generation Facilities. The owner, or a lessee responsible for payment of taxes, of a renewable generation facility and the municipality in which the facility is located may enter into a voluntary agreement to make a payment in lieu of taxes, pursuant to RSA 72:74.

8 Revenue Administration; Duties of Commissioner; Reference Added. Amend RSA 21-J:3, XIII to read as follows:

XIII. Equalize annually by May 1 the valuation of the property as assessed in the several towns, cities, and unincorporated places in the state including the value of property exempt pursuant to RSA 72:37, 72:37-b, 72:39-a, 72:62, 72:66, and 72:70, **and property which is the subject of a payment in lieu of taxes under RSA 72:74** by adding

to or deducting from the aggregate valuation of the property in towns, cities, and unincorporated places such sums as will bring such valuations to the true and market value of the property, and by making such adjustments in the value of other property from which the towns, cities, and unincorporated places receive taxes or payments in lieu of taxes as may be equitable and just, so that any public taxes that may be apportioned among them shall be equal and just. In carrying out the duty to equalize the valuation of property, the commissioner shall follow the procedures set forth in RSA 21-J:9-a.

9 Applicability. Nothing in sections 5-9 of this act shall affect any existing agreement entered into under the prior RSA 362-A:6 between a qualifying facility and a city, town, or village district for payment in lieu of taxes. Sections 5-9 of this act shall apply to tax years commencing on or after April 1, 2006.

10 Effective Date.

I. Sections 5-9 of this act shall take effect April 1, 2006.

II. The remainder of this act shall take effect 60 days after its passage.

## 2006-2196s

### AMENDED ANALYSIS

This bill specifies that bio-oil, bio synthetic gas, and biodiesel are renewable energy sources for certain purposes.

This bill also authorizes the governing body of a municipality to enter into a payment in lieu of taxes agreement with the owner or lessee of a renewable generation facility.

SENATOR GATSAS (In the Chair): Floor amendment 2196 has been proposed. You may speak to the amendment as it's being passed out, Senator.

SENATOR BURLING: I prefer not to take any more time of the Senate. I've made my remarks. We have made the correction relative to a single sentence on the second page, and I would just encourage my colleagues to adopt this.

SENATOR MORSE: Senator Burling, I'm sure that the second amendment is virtually the same. Can a single board of selectmen...it's a two-fold question 'cause I guess you've already run this past the municipal group. Can a single board of selectmen adopt this, and furthermore, does the Municipal Association support this?

SENATOR BURLING: With regard to your second question first, yes, they support it most wholeheartedly. And second, yes. The language requiring a public hearing before action by the municipality's governing body is the process that protects the rights of the individual voters in the community. Again, our feeling is that a governing body has this power under current law; this is a straightforward authorization for them to do these pilots. And it's consistent with the other sort of payment in lieu of tax arrangements that are in statute.

SENATOR BARNES: Thank you, Mr. President. Thank you, Senator Burling. I just heard your comments and I understand about the public hearing, but realistically, two people in that town, two members of that board of selectmen could make that decision even after the public hearing. Is that correct? 'Cause they're not obligated to listen to what the public hearing says, and the bottom line, they can disregard what's been said at the meeting.

SENATOR BURLING: Senator, again, it is theoretically possible, but I believe in the people who run for office as the governing bodies of our municipalities.

SENATOR BARNES: Thank you.

SENATOR BURLING: It is theoretically possible, but I think most people will take this very seriously.

**The question is on adoption of the floor amendment.**

**A roll call was requested by Senator Barnes.**

**Seconded by Senator Larsen.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Martel, Estabrook, Hassan, Fuller Clark.**

**The following Senators voted No: Boyce, Barnes, Letourneau, Morse.**

**Yeas: 19 - Nays: 4**

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1357**, relative to the legislative facilities committee. Internal Affairs Committee. Ought to pass, Vote 5-0. Senator Bragdon for the committee.

SENATOR BRAGDON: Thank you, Mr. President. This is largely a housekeeping bill. It states the powers and duties of the Legislative Facilities Committee, allows for designees of the majority and minority leaders, and clarifies the availability of committee records. Basically, a lot of the rules governing this committee are in session law, and this bill puts them all into statute in one neat organized pile of regulations. Please join the Internal Affairs Committee and vote HB 1357 ought to pass.

**Adopted.**

**Ordered to third reading.**

**HB 1403**, relative to explanations of proposed constitutional amendments appearing on the ballot. Internal Affairs Committee. Inexpedient to legislate, Vote 4-1. Senator Bragdon for the committee.

SENATOR BRAGDON: Thank you, Mr. President. I move HB 1403 inexpedient to legislate. The bill would establish a procedure for the general court to place explanations of constitutional amendments on the ballot. The logistics of the process was troubling and the committee recommends inexpedient to legislate. Thank you.

**Committee report of inexpedient to legislate is adopted.**

**HB 1566**, relative to the definitions of resident for motor vehicle law purposes and domicile for voting purposes and relative to vehicle registration and driver's license requirements. Internal Affairs Committee. Ought to pass, Vote 4-1. Senator Roberge for the committee.

SENATOR ROBERGE: Thank you, Mr. President. This bill modifies the definition of resident for motor vehicle law purposes and makes the determination of residence for motor vehicle law purposes the same as that

of domicile for voting purposes. This bill also establishes a forty-day deadline for notifying the Department of Safety of changes of name or address and obtaining vehicle registrations and drivers' licenses by new residents. This bill will require that, if you sign an affidavit to vote, you will have to comply with the motor vehicle laws. Please join the Internal Affairs Committee and vote ought to pass.

SENATOR HASSAN: Thank you, Mr. President. I rise in opposition of the ought to pass because I think it's important for us to understand that what we are doing is adding a new barrier to make people eligible to vote. Currently, our current statute, RSA 654:1 says that you are eligible to vote in the place in which the voter is domiciled, and our statute says, "an inhabitant's domicile for voting purposes is that one place where a person, more than any other place, has established a physical presence and manifests an intent to maintain a single, continuous presence for domestic, social and civil purposes relevant to participating in democratic self government." This is consistent with the federal Constitution as well as our own Constitution that the critical component to being an eligible voter is your intent to participate fully in the civic life of the community in which you vote. What this bill will do is say that your...that commitment to the civic engagement in a New Hampshire community that you have made, is irrelevant if you happen to have a car registered in another state for more than forty days after you move here. So for instance, if somebody moves here forty-one days before election day and fails to get their car registered by election day, misses it by one day, misses doing the paperwork and paying the fee to register their car here, they will be ineligible to vote despite having moved here, despite having made the commitment to be fully engaged in their community. It also means that from New Hampshire residents who have lived here for years and years, but might have a business in another state and a car registered in that other state for the business, that they cannot vote in New Hampshire. This is adding a barrier to voting. It is attempting to fix a problem that once again, we do not have. There is some sort of concern here about voter fraud which our Attorney General says we do not have, and it is going to require people to move their car registration and to pay a fee, simply for the constitutional privilege of voting. There is no constitutional right to register a car, but there is one to vote. The League of Women Voters appeared in opposition to this bill. It will restrict the rights of New Hampshire residents, snowbirds, students, people who have businesses in other places, people who might keep a car in another state because they drive in the other state but they live in a city in New Hampshire, and they don't need the car here. It's not necessary, and it's a barrier to voting, and I urge my colleagues to overturn the ought to pass.

SENATOR FOSTER: Thank you, Mr. President. For Senator Hassan. I just want to make sure I heard this right because it amazes me that this is what we're saying. We're saying that if our senior citizens live down, for example, in Florida during the winter months and up here in the summer months, and they have a car down there, and they have a house down there, and they leave the car down there, they don't even bring it back. They can't vote here?

SENATOR HASSAN: That's correct.

SENATOR FOSTER: That's what this bill would do?

SENATOR HASSAN: That's what this bill means.

SENATOR FOSTER: Thank you.

SENATOR ESTABROOK: Question of Senator Hassan. Senator, do you think that statute that we might pass that takes away the right to vote because you didn't register your car, might be unconstitutional, and we're setting ourselves up to defend an unconstitutional statute?

SENATOR HASSAN: I certainly think that's a possibility, Senator.

SENATOR ESTABROOK: Thank you.

SENATOR BOYCE: Thank you Mr. President. I'd like to clarify some misconceptions that we've just come across here. The wording of this bill says that a resident, in the motor vehicle statutes, "shall be a resident of the state" as defined in 21:6, "except that no person shall be deemed to be a resident who claims residence in any other state for the purpose of registering a motor vehicle or getting a driver's license in that state." What that says and what that means is, that if a snowbird goes to Florida, goes to Florida's Motor Vehicle Department and says, "I'm a resident here. I want to get a driver's license. I want to register my car here". They're no longer a resident in New Hampshire. They've made that decision. Now, if they go in to the motor vehicles in Florida, and say, "I live in New Hampshire. I am a resident in New Hampshire, but I bought this vehicle, and I want to register it here because I'm going to leave it here while I'm not here. I'm going to leave it here at my place in Florida. I have one in New Hampshire that I am going to drive there." There is no problem with that. You don't have to be a resident to register a motor vehicle. And I know that for a fact, because I have a boat that I bought in Florida, and it has a trailer under it, which is a vehicle. I registered that vehicle in Florida, as a resident of New Hampshire, but because the boat's there, the trailer's there, the laws of their state say that if it's there and used there, it has to be registered there. So claiming that you're a resident for the purpose of registering as a resident or for getting a driver's license as a resident, or for getting discount prices at Disney World. If you declare yourself a resident to get a driver's license in another state, you cannot be a resident in this state. That's what this says. Now, if you want to go to another state and operate your motor vehicle there, and garage it there, you have to register it there. If you have a driver's license from Florida and come up here in the summer time, maintain that as your residence, come here for three months, but you leave a car here, our law already says that because that car is garaged here, meaning it is parked here, stays here most of the time, you have to register it here. The same thing if you have a summer home here and you live in Massachusetts. You still have to register it where the car is used, not where you happen to be a resident. So that...saying that because you have a car in Florida means you can't vote in New Hampshire, no. You can have cars all over the world. You have to register them under the laws of the state or the jurisdiction that you're in, and most of the time that means that, if it stays there, is used there, is insured there, it has to have their license plate on it. They like to get their taxes just like we like to get ours. It's all about taxes. This is simply saying that, if you declare yourself to be a resident of some other state for this purpose, you cannot also declare yourself to be a resident of New Hampshire. It's very simple. You can't be a resident in more than one place. Thank you.

SENATOR FOSTER: Senator Boyce. Well, then why isn't it enough to say if I declare myself a resident of Florida, I'm a resident of Florida? Period. Why are we involving motor vehicles in this discussion?

SENATOR BOYCE: Because the motor vehicles...

SENATOR FOSTER: is for voting and the other things for cars. You just gave a great explanation of why I could own a car down in Florida. So I am trying to understand that.

SENATOR BOYCE: Because there is a discrepancy in our laws between the definitions of registration...a resident for one purpose and resident for another purpose. You can be a resident for...under the current situation, you could conceivably be a resident for one purpose and not for another. We're...this is simply saying that, if you have decided that your residence is New Hampshire, then it is New Hampshire. You can't claim dual citizenship, I guess, and claim that you are also a resident somewhere else. You can be a resident in only one place. You can't...unless you've got a clone, and I don't think that is legal yet.

SENATOR FOSTER: Follow up? But doesn't the statute say that right now? You can't be a resident of two places. If I declare in one place I can't in another.

SENATOR BOYCE: This simply clarifies it.

SENATOR FOSTER: Thank you.

SENATOR GOTTESMAN: Senator Boyce, please. Senator Boyce, are you aware that there are two different designations of people who live in a particular state, one being residency and one being a domiciliary?

SENATOR BOYCE: Yes. That's true.

SENATOR GOTTESMAN: May I follow up? Can I remind you that a domiciliary is a person who claims this particular residence as their primary home?

SENATOR BOYCE: That's true and, if they do that, they cannot also claim to be a resident somewhere else.

SENATOR GOTTESMAN: Follow up? And, are you aware that what you just said is inconsistent with the definitions of the two in that you can have multiple residences, but you can only have one domicile? Are you aware of that?

SENATOR BOYCE: You can have multiple places that are residences. A residence is a house. What you're saying there is that you have multiple houses. But for the purposes of getting a driver's license or for paying your taxes and voting, and several other things, you can only reside in one place. That's all this is saying.

SENATOR GOTTESMAN: Follow up? And Senator Boyce, if a college student goes to another state and keeps a vehicle there for more than thirty days, and if under those state laws, require them to register that vehicle in that state, are they going to now give up their right to vote in New Hampshire if they have to declare that they are a domiciliary of that state or a resident of that state in order to register that vehicle?

SENATOR BOYCE: You don't have to declare yourself a resident to register a motor vehicle. You can register a motor vehicle as a resident of a different state. You do not have to be a resident to do that. You have to be a resident to get a driver's license. And a college student, I believe, all the states that I'm aware of, have an exemption in their motor vehicle statutes that covers college students. If they go to college, they don't have to register their car there. They can keep it registered at home, because that's their residence.



SENATOR GOTTESMAN: Just one more follow up if I may? Senator Boyce, I went through the committee report, I believe, and I didn't see any of that material that documented the things that you're claiming to be the laws in the other states. Was that information provided to you for each state in the United States or for any state in the United States?

SENATOR BOYCE: It didn't seem necessary.

SENATOR GOTTESMAN: So, is the answer no?

SENATOR BOYCE: It was not presented to us because we didn't feel it was necessary.

SENATOR GOTTESMAN: Thank you.

SENATOR BOYCE: And nobody felt necessary to provide it.

SENATOR HASSAN: Thank you, Mr. President. The last colloquy among Senator Foster and Senator Gottesman and Senator Boyce, I think, illustrates the critical point I'm trying to make. We should not be depriving people of the right to vote because they check off the wrong box in another state about whether they're registering their car as a resident or a non-resident. The notion of being...the notion of domicile in the United States of America is, as Senator Gottesman said, where your primary residence is and where you to choose to engage in civic life. We do not have a voter fraud problem in this state. We do not want to be scaring people away from the polls because they're afraid, they can't remember which box did I check in Florida when I went down there six months ago? Did I register it as a resident or not? Suppose somebody moves to this state thirty-nine...forty-two days before election day, and on day thirty-nine, they find out that their company is transferring them to Colorado in a month. They are, for that moment, a domiciliary of New Hampshire. They have under our current eligibility, the right to vote in New Hampshire because right then and there, that is where their home and their heart is. But I challenge anybody to think that that person should now have to go register their car so that they can vote, so that they can unregister it when they move out to Colorado when the company transfers them in two weeks or four weeks. Domicile is where your heart and your civic life is and that's the essence of our voting laws. You cannot vote in two states, but you may choose which state if you have multiple residences, you may vote in, by that very notion of which state you are committed to as a citizen. We are making this complicated. We are making it so that every person who tries to sort out our voter laws is going to need a law degree or going to be as good at explaining legalese as Senator Boyce is, and we are going to be taking away the right to vote from people who just want to be committed citizens of the state of New Hampshire when we already know we have two many of them who don't vote. This is bad legislation and I urge my colleagues to overturn the ought to pass motion. Thank you.

**Recess.**

**Out of recess.**

**The question is on the committee report of ought to pass.**

**A roll call was requested by Senator Estabrook.**

**Seconded by Senator Hassan.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**The following Senators voted No: Burling, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**Yeas: 16 - Nays: 7**

**Adopted.**

**Ordered to third reading.**

**CACR 41**, relating to representative districts. Providing that representative districts shall be apportioned according to specified standards. Internal Affairs Committee. Ought to pass, Vote 3-1. Senator Flanders for the committee.

SENATOR FLANDERS: Thank you, Mr. President. I move CACR 41 ought to pass. This Constitutional Amendment provides that when a town or a ward has enough inhabitants to equal or exceed the number required for one Representative seat, it shall have its own district. The legislature shall form towns, wards, or unincorporated places with fewer than the number of inhabitants necessary for a Representative seat into districts entitled to one or more Representatives. Excess population may be combined with other districts to allow for additional at-large or floterial representatives. A lot of thought went into this to make sure that we had no unintended consequences and that no towns were left out. This will bring us closer to the one-person, one-vote standard that we hold so dearly. If I may give an example in my district? Weare is my biggest town of a little over 9,000 people. They had two Representatives. They're combined with Goffstown. And it's a very good possibility that in the very near future, the town of Weare will have no Representatives under the present program. This way, the town of Weare would always have a Representative under this Constitutional Amendment. Please join the Internal Affairs Committee and vote CACR 41 ought to pass. Thank you.

SENATOR BURLING: Thank you, Mr. President. Mr. President, I rise in opposition to the adoption of the motion, and I want to speak briefly to that. I know for sure there is no beknighted soul on this Senate floor whose got more experience with floterials than I do. Reintroducing floterials to the redistricting mix of the House of Representatives is a serious, serious mistake. Floterials are a device which, on appropriate analysis in the 2002 Supreme Court case, it was determined severely misrepresent the one-person, one-vote concept, which is the foundation concept of our equal voting in New Hampshire. There is no way to equate one town, one Representative, with one-person, one-vote. If you proceed on a redistricting process in which your primary value is to insure that each town with more than 3,500 people gets one Rep., you will create floterials, and floterials will devalue the votes of some voters. That is simply the truth. And, if you read the Supreme Court decision in the case of Burling versus Chandler, I'm afraid it seems like a million years ago, but there it was, you'll understand the point that's made by the court. I want to move past that though, and say what we really should be doing is thinking about our constituents, because the House does have the right to do what it wants to do with its redistricting issues. Our constituents on the other hand, are going to be asked to vote on something in November which will be utterly indecipherable to them. And that is, they will be asked to vote on a concept, CACR 41, with no capacity to have comprehensible guidance in the form of a voter guide, because I guarantee you there is no human being in the state of New Hampshire who can write a voter guide that fully, adequately, and appropriately, describes the balance between floterials and the concept of each town gets at least one

Rep. You can't do it. The Supreme Court decision which deals with it doesn't make it all that much clearer, and takes fifteen pages. Both sides of eleven and a half paper. A proper voting guide is impossible to describe. The concept is that people...some people will lose the value of some of their votes. And my final point is to say it's all unnecessary because Senator Clegg and I, as usual, offered you the way out of this. There's only one reason why we're going through this tortuous process, and that is because we continue the statutory belief, it's not constitutional, it's only in statute, that the legislative bodies of the counties should be made up of equal numbers of the House members on the other side of that wall. It's not in our Constitution. If Senator Clegg and I got to do our study of county government, one of the things we would talk about is there's a more serious and appropriate way to have a legislative body for each county. They could be independently elected, in which case you have none of these floterial issues, you have none of these complex redistricting issues, and you'd never have to go back to court again to fight over the constitutionality of a floterial. I just...I've lived a long time in hopes that we would get a chance to make sense out of this mud pie. It's so close. I ask you please, don't do CACR 41. Do do the county study. Look at the question of how we would elect a county legislative body and let's begin to make this process reasonable and fair for all the voters. Thank you, Mr. President.

SENATOR BARNES: Thank you, Mr. President. I agreed with everything that Senator Burling said except asking you to overturn the motion. I've been up here, been in both bodies, sixteen years. We have sort of an agreement, and I was on the redistricting Committee at one time, and the agreement that we have had with each other, and you won't believe the agreements we have now with everything that is going on today and tomorrow, with all the stuff that's going on with bills. But one thing we have stood firm on, in both bodies, we let the bodies take care of their redistricting situation. So I'm gonna ask you all to please vote what the House wants to do on this and let the House take care of it, and let the chips fall where they may because next year, it might be us that wants something, here in this Senate, and we'd like them to extend the same favor. In other words, keep our hands off of theirs and we'll keep our hands off of theirs. Thank you, Mr. President.

SENATOR LARSEN: I rise also to oppose CACR 41 on the same basis that Senator Burling identified. What we heard is that we should keep our hands off of this, but we're asking the voters to understand the difficult concept, as you heard, of floterials. We're asking the voters to look at a one-person, one-vote, in perhaps some towns, which many, I know, towns want to accomplish, but the deadly language is the second part, which is the language that talks about that the legislature can then create floterials and that is what the Supreme Court's arguments identified causes the problem. This is not just an issue of let's keep our hands off and let the House solve their own problems. This is an issue of asking the voters to resolve something which we haven't yet fully figured out how to resolve amongst ourselves.

**The question is on the committee report of ought to pass.**

**A roll call was requested by Senator Barnes.**

**Seconded by Senator Clegg.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**The following Senators voted No: Burling, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**Yeas: 16 - Nays: 7**

**Adopted by the necessary 3/5 vote.**

**Ordered to third reading.**

**HB 1424**, relative to persons permitted to attend child abuse and neglect hearings. Judiciary Committee. Ought to pass, Vote 4-0. Senator Roberge for the committee.

SENATOR ROBERGE: Thank you, Mr. President. I move House Bill 1424 ought to pass. This bill provides that, in abuse and neglect cases, parties could invite a family member or best friend into what might otherwise be a closed hearing. The bill would always leave it up to the court's discretion as to whether or not to allow the invited individual to attend. All information covered under RSA 169-C would remain confidential. Merely the process would be opened up somewhat. Testimony at the public hearing indicated how very important this bill is to those who are going through these proceedings. Many within the judicial system feel that this is the most important statutory change and welcome its passage. Therefore, the Judiciary Committee recommends this legislation be ought to pass. Thank you.

Senator Foster offered a floor amendment.

Sen. Foster, Dist. 13

Sen. Clegg, Dist. 14

**May 1, 2006**

**2006-2109s**

**09/10**

### **Floor Amendment to HB 1424**

Amend the bill by replacing section 2 with the following:

2 Effective Date. This act shall take effect 60 days after its passage.

SENATOR FOSTER: Thank you, Mr. President. I'd like to offer floor amendment 2006-2109s and I'll speak to it as it's being passed out.

SENATOR GATSAS (In the Chair): Floor amendment 2109 has been proposed. You'll speak to it as it's being passed out.

SENATOR FOSTER: The only thing this amendment does is change the effective date of the legislation, from I believe it says January 1, 2007 to sixty days after passage. And frankly, probably the committee would have done "upon passage" but as a general rule, we like to give sixty days for the statutes to get on the books and people to become aware of them because we do think this is a good policy. So that's all it does and I ask your support. Thank you, Mr. President.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1134**, relative to membership of the state building code review board. Public and Municipal Affairs Committee. Ought to pass, Vote 4-0. Senator Roberge for the committee.

**MOTION TO TABLE**

Senator Roberge moved to have HB 1134 laid on the table.

**The question is on the motion to lay on the table.**

**A roll call was requested by Senator Burling.**

**Seconded by Senator Fuller Clark.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Letourneau, Morse.**

**The following Senators voted No: Burling, Gottesman, Foster, Larsen, Martel, Estabrook, Hassan, Fuller Clark.**

**Yeas: 14 - Nays: 8**

**Adopted.**

**LAIID ON THE TABLE**

**HB 1134**, relative to membership of the state building code review board.

**HB 1191**, making technical corrections to the chapter governing vital records. Public and Municipal Affairs Committee. Ought to pass, Vote 6-0. Senator Martel for the committee.

SENATOR MARTEL: Excuse me, Mr. President. Thank you. Thank you, Mr. President. I move House Bill 1191 ought to pass. This is simple housekeeping legislation that will make certain technical corrections to the laws governing vital records. These issues were overlooked when the responsibilities of the administration of Vital Statistics were transferred from the Department of Health and Human Services to the Department of State. The changes include correcting statutory cross references, classifying the Department of State's authority to issue burial permits, and replacing a reference to the Division of Information Technology with the Office of Information Technology. The Public and Municipal Affairs Committee asks for your support on the motion of ought to pass, and I thank you, Mr. President.

**Adopted.**

**Ordered to third reading.**

**HB 1435**, relative to the emergency plan for service animals. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 5-0. Senator Roberge for the committee.

**Public and Municipal Affairs**

**April 12, 2006**

**2006-1823s**

**08/09**

**Amendment to HB 1435**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the emergency plan for service animals and establishing a commission to study the evacuation and housing of animals during an emergency.

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraph; Emergency Services, Communications, and Management; Service Animal Evacuation Plan. Amend RSA 21-P:37 by inserting after paragraph V the following new paragraph:

VI. To prepare a comprehensive plan and program for the evacuation of hearing ear dogs, guide dogs, search and rescue dogs, and other service animals, as defined in RSA 167-D.

2 New Section; State Policy for Service Animals. Amend RSA 21-P by inserting after section 37 the following new section:

21-P:37-a State Policy for Service Animals. In cases of emergency, it shall be the policy of the state that service animals shall not be separated from the persons they serve. Every effort shall be made to keep service animals and the persons they serve together, and all appropriate state emergency planning and state sponsored emergency training shall be based on such assumptions.

3 Commission Established. There is established a commission to study the evacuation and housing of animals during an emergency.

4 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Three members of the senate, appointed by the president of the senate.

(c) One member of the New Hampshire Humane Society, appointed by such organization.

(d) One member of the Humane Society of the United States, appointed by such organization.

(e) One member of the American Society for the Prevention of Cruelty to Animals, appointed by such organization.

(f) One member from the department of safety, division of emergency services, communications, and management, appointed by the commissioner of the department of safety.

(g) The commissioner of the department of agriculture, markets, and food, or designee.

(h) The state veterinarian, or designee.

(i) One member from the Concord Area Chapter of the American Red Cross, appointed by such organization.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

5 Duties. The commission shall:

I. Define "domestic pet."

II. Develop a comprehensive plan for the evacuation and housing of domestic pets in cases of emergency.

III. Establish guidelines for evacuation and housing of livestock in cases of emergency.

IV. Give detailed protocol for coordination of state and non-profit agencies in gathering, organizing, housing, and reclaiming of animals in cases of emergency.

6 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Four members of the commission shall constitute a quorum.

7 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 1, 2006.

8 Effective Date. This act shall take effect 60 days after its passage.

**2006-1823s****AMENDED ANALYSIS**

This bill authorizes the director of the division of emergency services, communications, and management to prepare a plan for service animals to be evacuated in the event of an emergency. The bill states that in cases of emergency it is state policy that service animals not be separated from the persons they serve.

This bill also establishes a commission to study the evacuation and housing of animals in case of an emergency.

SENATOR ROBERGE: Thank you, Mr. President. I move House Bill 1435 ought to pass as amended. This legislation will mandate that the Office of Emergency Management create a comprehensive plan and program for the evacuation of service animals in the event of an emergency. Service animals and the people they serve work together as a team. Separating them in an emergency would make a stressful and frightening situation much worse. It will be the policy of the state that service animals are not separated from the persons they serve in an emergency, and every effort shall be made to keep service animals and people together. This legislation also enables the commission...also establishes a commission to study the evacuation housing of animals like household pets during an emergency in hopes of avoiding the situation that occurred in New Orleans after hurricane Katrina. The Public and Municipal Affairs Committee asks for your support in ought to pass as amended. And, Mr. President, I have an amendment here.

**Amendment adopted.**

Senator Roberge offered a floor amendment.

Sen. Roberge, Dist. 9

**April 28, 2006****2006-2104s****08/09****Floor Amendment to HB 1435**

Amend paragraph I of section 4 of the bill by inserting after subparagraph (i) the following:

(j) One member of the New Hampshire Veterinary Medical Association, appointed by such organization.

SENATOR ROBERGE: Thank you Mr. President.

SENATOR GATSAS (In the Chair): Amendment 2104 has been proposed. Can you speak to that amendment as it's being passed out? Thank you.

SENATOR ROBERGE: Yes, Mr. President. This amendment will simply add a member of the New Hampshire Veterinary Medical Association to the commission to study the evacuation and housing of animals during an emergency. It was created...the committee amend...the amendment was created by the committee. It was simply an oversight that it was not included in the bill and we ask for your support on this amendment.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

### **MOTION TO REMOVE FROM THE TABLE**

Senator Kenney moved to have HB 1687 taken from the table.

SENATOR KENNEY: Thank you, Mr. President. I'd like to take 1687 off the table. Calendar 16, page six. And it's my understanding...

SENATOR GATSAS (In the Chair): Senator Kenney, you're removing it from the table? It's a study bill. Because it's merely an extension of time? I understand.

SENATOR KENNEY: That's correct, Mr. President.

SENATOR GATSAS (In the Chair): Thank you.

**Adopted.**

**HB 1687**, extending certain studies and adding a certain duty relative to pharmacy reimbursement.

**The question is on the committee report of ought to pass.**

SENATOR HASSAN: Where is the bill?

SENATOR GATSAS (In the Chair): The bill is in your calendar, page six.

SENATOR HASSAN: Thank you.

SENATOR GATSAS (In the Chair): Clarification is that it was a study bill put on the table. It's a study...it's already in process and it's just an extension of the time of the study committee.

**Adopted.**

**Ordered to third reading.**

### **MOTION TO REMOVE FROM THE TABLE**

Senator Martel moved to have HB 1763 taken from the table.

SENATOR MARTEL: Thank you very much, Mr. President. Mr. President, would it be time for me to ask to take House Bill 1763 off the table?

SENATOR GATSAS (In the Chair): Senator Martel has asked to remove 1763 from the table for the same reason. It's a committee that's already in standing and just an extension of time.

SENATOR MARTEL: That's correct.

**Adopted.**

**HB 1763**, extending a committee and adding certain duties relative to pharmacy reimbursement.

**The question is on the committee report of ought to pass.**

**Adopted.**

**Ordered to third reading.**

**HB 1176**, establishing a committee to study statutes relating to railroads. Transportation and Interstate Cooperation Committee. Ought to pass with amendment, Vote 5-0. Senator Martel for the committee.

**Transportation and Interstate Cooperation**

**April 19, 2006**

**2006-1902s**

**06/09**

### **Amendment to HB 1176**

Amend subparagraph I(b) of section 2 of the bill by replacing it with the following:

(b) Two members of the senate, appointed by the president of the senate.



Amend the bill by replacing section 3 with the following:

3 Duties. The committee shall review and recommend revisions, updates, and purges of all New Hampshire statutes covering railroad operation, rights of way, property rights, and such other railroad statutes as the committee may find relevant.

SENATOR MARTEL: Thank you, Mr. President. I think I misheard or somebody quoted saying House Bill 1177. It should be 1176.

SENATOR GATSAS (In the Chair): 1176.

SENATOR MARTEL: Thank you very much.

### **MOTION TO TABLE**

Senator Martel moved to have HB 1176 laid on the table.

**Adopted.**

### **LAI D ON THE TABLE**

**HB 1176**, establishing a committee to study statutes relating to railroads.

**HB 1201**, relative to child passenger restraints. Transportation and Interstate Cooperation Committee. Ought to pass, Vote 3-0. Senator Letourneau for the committee.

SENATOR LETOURNEAU: Thank you, Mr. President. I move House Bill 1201 ought to pass. This bill clarifies the applicability of certain child passenger restraint requirements. This bill clarifies that, if a child has reached the age of six years old or they have reached fifty-five inches in height, they no longer need to have a child passenger seat. Please join the Transportation Committee and vote ought to pass. Thank you.

**Adopted.**

**Ordered to third reading.**

**HB 1260**, relative to informing first-time driver's license applicants of the controlled drug laws. Transportation and Interstate Cooperation Committee. Ought to pass, Vote 4-0. Senator Flanders for the committee.

SENATOR FLANDERS: Thank you, Mr. President. I move House Bill 1260 ought to pass. This bill requires the Department of Safety to inform first-time driver's license applicants to be told and shown the book that's on the controlled drug laws. This bill is designed to help educate young people of the dangers associated with controlled drugs in an effort to ensure that they won't develop these types of problems. Please join the Transportation Committee and vote ought to pass. Thank you.

SENATOR BARNES: Thank you, Mr. President. Senator Flanders, I'm sorry I didn't bring this up earlier. There's nothing in here about DWI, about drinking.

SENATOR FLANDERS: I think it's already being done.

SENATOR BARNES: That's not...

SENATOR FLANDERS: I'm not sure of that.

SENATOR BARNES: Follow up question?

SENATOR FLANDERS: Yes.

SENATOR BARNES: How is the Department notifying these young drivers?

SENATOR FLANDERS: On which?

SENATOR BARNES: On the bill right now that we have here, that we're going to be voting on. How are the first time driver license applicants being informed?

SENATOR FLANDERS: They are going to inform the first driver applicants by talking with them and giving them whatever laws and RSAs we have on that.

SENATOR BARNE: Do they get a piece of paper when they file?

SENATOR FLANDERS: Yes they do.

SENATOR BARNES: Thank you.

**Adopted.**

**Ordered to third reading.**

**HB 1448**, relative to the applicability of drivers' license revocations for drugs or alcohol involvement. Transportation and Interstate Cooperation Committee. Ought to pass with amendment, Vote 5-0. Senator Letourneau for the committee.

Sen. Letourneau, Dist. 19

**April 18, 2006**

**2006-1874s**

**03/09**

#### **Amendment to HB 1448**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the applicability of drivers' license revocations for drugs or alcohol involvement and relative to the medical/vision advisory board.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 Repeal. 2005, 123:2 and 2005, 123:3, I, relative to repealing the medical/vision advisory board, are repealed.

**2006-1874s**

#### **AMENDED ANALYSIS**

This bill modifies the applicability of certain provisions of the statute requiring drivers' license revocations or denials for drugs or alcohol involvement. This bill also repeals the prospective repeal of the medical/vision advisory board.

SENATOR LETOURNEAU: Thank you, Mr. President. I move House Bill 1448 ought to pass with amendment. This bill modifies the applicability of certain provisions of the statute requiring drivers' license revocations or denials for drugs or alcohol involvement. This bill is a request of the Department of Safety. Under the current statute, the Department of Safety cannot revoke a license. This bill gives that authority. This also clarifies the language in RSA 263:56. The amendment, 1874s, repeals the prospective repeal of the Medical/Vision Advisory Board, in order to allow more time so this advisory board can be appointed and address the issues before them. Please join the Transportation Committee and vote ought to pass with amendment. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1470**, relative to overweight vehicle permit fees. Transportation and Interstate Cooperation Committee. Ought to pass with amendment, Vote 6-0. Senator Letourneau for the committee.

### **Transportation and Interstate Cooperation**

**April 19, 2006**

**2006-1901s**

**06/09**

#### **Amendment to HB 1470**

Amend the bill by replacing section 1 with the following:

1 Special Permit Fees. Amend RSA 266:22, I-IV to read as follows:

I. Each permit for either over-length, over-width or over-height or any combination thereof, ~~§[5] 6~~;

II. Each permit for vehicle and load over-weight, fee based on the following schedule: vehicle and load over registered weight but not exceeding 50,000 pounds, ~~§[5] 5.50~~; 50,001 pounds to 60,000 pounds, ~~§[6] 6.50~~; 60,001 pounds to 70,000 pounds, ~~§[7] 7.50~~; 70,001 pounds to 80,000 pounds, ~~§[8] 8.50~~; 80,001 pounds to 90,000 pounds, ~~§[9] 9.50~~; 90,001 pounds to 100,000 pounds, ~~§[10] 10.50~~; and for each additional 10,000 pounds \$2 shall be added to the above rate;

III. Provided a special permit may be issued to a person to cover all types of moves made within a radius of 100 miles from the person's home location for a fee of ~~§[50] 60~~ for each unit. Permits issued under the provisions of this paragraph may be issued for such time as the commissioner of transportation may determine.

IV. Provided further that a special annual permit may be issued to a person to cover all types of moves for a fee of ~~§[100] 115~~ for each unit. Each permit issued under the provisions of this paragraph shall be issued for one year;

SENATOR LETOURNEAU: Thank you, Mr. President. I move House Bill 1470 ought to pass with amendment. This bill changes the special permit fee amounts. The Department of Transportation is currently losing money on this program, and the fee changes in this bill will provide for a positive cash flow situation. The program is currently subsidized by highway money. The fees pay for the administration of the program and technical assistance to the drivers. The committee amendment provides for 25 percent of the increase as stated in the bill as amended by the House. Please join the Transportation Committee and vote ought to pass with amendment. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1444-FN**, relative to definitions under the real estate transfer tax. Ways and Means Committee. Ought to pass, Vote 4-0. Senator Clegg for the committee.

SENATOR CLEGG: Thank you, Mr. President. I move House Bill 1444 ought to pass. The bill was a request of the Department of Revenue to close a loophole in the real estate transfer tax. The bill clarifies certain definitions, eliminates surplus language, and alters the formula for determining whether a company is principally engaged in the business of real estate. These changes will prevent anyone from avoiding the real estate transfer tax through the use of multi-level ownership. Clarifying

the law will also make it easier for the Department to identify nonconforming transactions. The Ways and Means Committee recommends that this legislation be adopted and asks for your support. Thank you.

**Adopted.**

**Ordered to third reading.**

**HB 1501**, making various changes to the lottery commission. Ways and Means Committee. Ought to pass, Vote 3-1. Senator Odell for the committee.

SENATOR ODELL: Thank you, Mr. President. I move House Bill 1501 ought to pass. This bill was a request of the Lottery Commission to make various updates and technical changes. Thank you.

SENATOR CLEGG: Mr. President, I rise in opposition to the ought to pass. I have a severe problem with the raises in here. It's over 200 percent. They go from \$2,400 a year to \$7,000 a year for a member. And I'm not sure what the chair gets now, but that would go up to \$10,000. And I'm looking at a commission that probably meets one quarter of the time that this body meets and we all make \$100. And I think it's time that we kept government as voluntary as possible. If you're interested, participate...and for \$2,500 a year, that's not so bad. If you're not interested, don't participate, but don't ask for such increases at 200 percent. I know a lot of our workers would love a 10 percent increase. And I think this is absolutely a wrong bill to pass. Thank you.

**Motion failed.**

Senator Clegg moved inexpedient to legislate.

**Adopted.**

**HB 1501 is inexpedient to legislate.**

**HB 1333**, relative to solid waste reduction goals. Environment and Wildlife Committee. Inexpedient to legislate, Vote 4-1. Senator Eaton for the committee.

SENATOR EATON: Thank you. I move House Bill 1333 inexpedient to legislate. The legislation would have rewritten the hierarchy of solid waste reduction goals. Deconstruction would have been added to the list while incineration and land filling would have been removed. The hierarchy was developed as a ranking of the most environmentally sound strategies for dealing with solid waste. This hierarchy is still good strategy for managing solid wastes in New Hampshire. The committee is concerned about eliminating this hierarchy because of the guidance it gives to DES and the potential confusion changes could cause. Additionally, this bill is premature because the study committee on construction and demolition debris does not issue its final report until June '06. Passage of this bill might frustrate the work of the committee. Thank you.

**Committee report of inexpedient to legislate is adopted.**

**HB 1495**, relative to setback requirements for landfills located near rivers. Environment and Wildlife Committee. Interim Study, Vote 3-2. Senator Eaton for the committee.

SENATOR EATON: Thank you. I move that House Bill 1495 go to Interim Study. This legislation would increase the...I move to table.

### **MOTION TO TABLE**

Senator Boyce moved to have HB 1495 laid on the table.

The question is on the motion to lay on the table.

A roll call was requested by Senator Larsen.

Seconded by Senator Gottesman.

The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.

The following Senators voted No: Burling, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.

Yeas: 16 - Nays: 7

Adopted.

### LAI D ON THE TABLE

**HB 1495**, relative to setback requirements for landfills located near rivers.

**HB 1206**, relative to the assessing standards board. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 5-0. Senator Kenney for the committee.

Sen. Kenney, Dist. 3

**April 26, 2006**

**2006-2068s**

**10/09**

### Amendment to HB 1206

Amend the title of the bill by replacing it with the following:

AN ACT relative to the assessing standards board, and the approval of appraisal contracts.

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as 5:

4 Appraisals of Property for Ad Valorem Tax Purposes. Amend RSA 21-J:11, I to read as follows:

I. (a) Every person, firm, or corporation intending to engage in the business of making appraisals on behalf of a municipality for tax assessment purposes in this state shall notify the commissioner of that intent in writing. No person, firm, or corporation engaged in the business of making appraisals of taxable property for municipalities and taxing districts shall ~~begin any appraisal work~~:

(1) *Enter into any contract or agreement with any town, city, or governmental division* without first submitting a copy of the contract or agreement to the commissioner along with the names and qualifications of all personnel to be employed under the contract or agreement~~[-]~~ *for review of the proposed contract or agreement and written recommendations of the department to be made to the municipality within 10 working days of receipt by the department;*

(2) *Begin any appraisal work without first submitting a copy of the executed contract or agreement to the commissioner along with the names and qualifications of all personnel to be employed under the contract or agreement.*

(b) Any contract or agreement entered into for a reassessment or new assessment ordered by the board of tax and land appeals, pursuant to RSA 71-B, shall be first submitted to the commissioner for examination and approval.

(c) This paragraph shall not apply to municipal employees.

**2006-2068s****AMENDED ANALYSIS**

This bill requires the assessing standards board to recommend certain guidelines relative to revaluations and to adopt rules relative to practices and procedures for mass appraisals.

This bill deletes a requirement that the assessing standards board recommend guidelines for the adequacy of tax maps and other records; clarifies that a quorum of the assessing standards board is not required when holding public forums throughout the state; and changes the name of a job category for which a person may be certified by the department of revenue administration pursuant to rules adopted by the board.

The bill also requires the review and written recommendations of the commissioner of revenue administration for all proposed contracts and agreements for appraisals of taxable property for municipalities.

SENATOR KENNEY: Thank you, Mr. President. I move House Bill 1206 ought to pass with amendment. The bill requires the Assessing Standards Board to recommend guidelines relative to reevaluations and to adopt rules relative to practices and procedures for mass appraisals. This bill also deletes a requirement that the Assessing Standards Board recommend guidelines for the adequacy of tax maps and clarifies that a quorum of the Assessing Standards Board is not required when holding public forums throughout the state. House Bill 1206 makes the documentation, assumptions and calculations of appraisals more transparent and will help ensure a fair and equitable assessing practices. The committee also adopted an amendment requiring the municipalities to submit appraisal contracts to DRA for an expert review and guidance: DRA's approval is not required under the amended legislation, and the committee recommends ought to pass with amendment. Thank you, Mr. President.

SENATOR JOHNSON: Thank you, Mr. President. I was involved with a constituent relative to this piece of legislation and it was our opinion that the approval of DRA was the most important part of the bill and I brought that forward in testimony. And I think, in all fairness to the taxpayer, that DRA are the people that have the expertise to review these contracts and I think they should have final approval. I tried to get ahold of my constituency today because I almost feel that they feel now, this is only a piece of feel good legislation and really won't do anything to help the taxpayer, and I just have a feeling that he may even suggest that I recommend inexpedient to legislate on House Bill 1206. But, not having been able to really get to him, I guess I just want to make that statement on the floor, and go from there. Thank you.

SENATOR BARNES: Thank you, Mr. President. I just want to make it perfectly clear why the committee, I believe, voted 5-0 and why I voted as one of those five. The committee didn't think that we need that department making those decisions for every town in the state of New Hampshire. We certainly agree that it's a great idea for the plans to be reviewed and to take advice from the Department because they have the expertise that a lot of our small towns don't have. But to take out of the hands of the towns people, the right to approve or disapprove, doesn't sound like New Hampshire; it sounds like Massachusetts or somewhere else, and that's why we voted that way. Thank you.

SENATOR JOHNSON: Question for Senator Barnes. Senator Barnes, would you agree that the commissioner of DRA said that he could live with it either way?

SENATOR BARNES: That's why I went the way I did, Senator, because you're absolutely right. He could go my way or your way. So I appreciate him coming my way on that one.

SENATOR JOHNSON: Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1346**, requiring certain persons to keep the contents of prescriptions confidential. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 3-1. Senator Kenney for the committee.

Sen. Kenney, Dist. 3

**April 26, 2006**

**2006-2067s**

**01/09**

### **Amendment to HB 1346**

Amend the bill by replacing all after the enacting clause with the following:

1 New Sections; Pharmacists and Pharmacies; Prescription Information to be Kept Confidential. Amend RSA 318 by inserting after section 47-e the following new sections:

318:47-f Prescription Information to be Kept Confidential. Records relative to prescription information containing patient-identifiable and prescriber-identifiable data shall not be licensed, transferred, used, or sold by any pharmacy benefits manager, insurance company, electronic transmission intermediary, retail, mail order, or Internet pharmacy or other similar entity, for any commercial purpose, except for the limited purposes of pharmacy reimbursement; formulary compliance; care management; utilization review by a health care provider, the patient's insurance provider or the agent of either; health care research; or as otherwise provided by law. Commercial purpose includes, but is not limited to, advertising, marketing, promotion, or any activity that could be used to influence sales or market share of a pharmaceutical product, influence or evaluate the prescribing behavior of an individual health care professional, or evaluate the effectiveness of a professional pharmaceutical detailing sales force. Nothing in this section shall prohibit the dispensing of prescription medications to a patient or to the patient's authorized representative; the transmission of prescription information between an authorized prescriber and a licensed pharmacy; the transfer of prescription information between licensed pharmacies; the transfer of prescription records that may occur in the event a pharmacy ownership is changed or transferred; care management educational communications provided to a patient about the patient's health condition, adherence to a prescribed course of therapy or other information about the drug being dispensed, treatment options, or clinical trials. Nothing in this section shall prohibit the collection, use, transfer or sale of patient and prescriber de-identified data by zip code, geographic region or medical specialty for commercial purposes. In addition to other appropriate remedies under this chapter, a violation of this section is an unfair or deceptive act or practice within the meaning of RSA 358-A:2. Any right or remedy set forth in RSA 358-A may be used to enforce the provisions of this section.

318:47-g Patient Assistance Program.

I. Following the close of each calendar year, any clearinghouse that provides information to New Hampshire residents about pharmaceutical manufacturers' patient assistance programs shall, to the extent that the clearinghouse collects such information, provide aggregate information to the commissioner of the department of health and human services relative to either:

(a) The number of people in New Hampshire who may qualify for any manufacturer or government program during the calendar year; or

(b) The number of patients served during the calendar year.

II. An individual company may provide additional information about the individual company's patient assistance program; however, the commissioner shall combine all information from all sources, including individual companies and the clearinghouse, and shall report only aggregate information to the public.

2 New Paragraph; Controlled Drug Act; Prescription Information to be Kept Confidential. Amend RSA 318-B:12 by inserting after paragraph III the following new paragraph:

IV. Records relative to prescription information containing patient-identifiable and prescriber-identifiable data shall not be licensed, transferred, used, or sold by any pharmacy benefits manager, insurance company, electronic transmission intermediary, retail, mail order, or Internet pharmacy or other similar entity, for any commercial purpose, except for the limited purposes of pharmacy reimbursement; formulary compliance; care management; utilization review by a health care provider, the patient's insurance provider or the agent of either; health care research; or as otherwise required by law. Commercial purpose includes, but is not limited to, advertising, marketing, promotion, or any activity that could be used to influence sales or market share of a pharmaceutical product, influence or evaluate the prescribing behavior of an individual health care professional, or evaluate the effectiveness of a professional pharmaceutical detailing sales force. Nothing in this paragraph shall prohibit the dispensing of prescription medications to a patient or to the patient's authorized representative; the transmission of prescription information between an authorized prescriber and a licensed pharmacy; the transfer of prescription information between licensed pharmacies; the transfer of prescription records that may occur in the event a pharmacy ownership is changed or transferred; care management educational communications provided to a patient about the patient's health condition, adherence to a prescribed course of therapy or other information about the drug being dispensed, treatment options, or clinical trials. Nothing in this section shall prohibit the collection, use, transfer or sale of patient and prescriber de-identified data by zip code, geographic region or medical specialty for commercial purposes. In addition to other appropriate remedies under this chapter, a violation of this paragraph is an unfair or deceptive act or practice within the meaning of RSA 358-A:2. Any right or remedy set forth in RSA 358-A may be used to enforce the provisions of this paragraph.

3 Effective Date. This act shall take effect upon its passage.

SENATOR KENNEY: Thank you, Mr. President. I move ought to pass with amendment on House Bill 1346. House Bill 1346 prohibits the sale or use of individual patient and prescriber identity data for marketing brand name prescription drugs. Current marketing practices, which rely on patient and prescriber data, can unfairly interfere with doctors' prescribing practices and are not in the best interest of the patient. The



legislation as amended also clarifies that identity data, including electronic prescribing for the parents picking up medications for children and records transferred when pharmacies are sold are all acceptable uses as well as for law enforcement, care management and research. The committee amended the bill to include a patients' assistance program, which was a key request of pharmacies and the committee recommends ought to pass with amendment on House Bill 1346. Thank you, Mr. President. Could I speak for a second time?

SENATOR GATSAS (In the Chair): You may continue speaking.

SENATOR KENNEY: Thank you. We all know that information is power, and when it comes to the drug companies marketing, they have the information and the power. The drug companies today have file and dossiers on each physician and what they are prescribing to the patient. And they get this information through the retail pharmacy chains, the managed drug plans for insurers. Drug sale representatives have physician prescribing habits at their disposal, and no doubt are trying to sell the highest end brand medicine. Remember in this legislature, it was not too long ago that we passed legislation that our Medicaid drug formulary would encourage the use of generic drugs when it was appropriate and that also included psychotropic drugs as well. Now we know the American Medical Association will soon give individual physicians an opt out choice declaring their prescription records off limits to drug sales representatives on July 1<sup>st</sup> of this year. It was surprising to learn that a large amount of physicians are unaware that there are data mining companies out there who access prescriber information. The patient privacy has never been a question here, because that is protected under HIPAA. This is information again, it's protected. But the question is, even without...even with an opt out choice for physicians, these companies can use this other marketing and research purposes. So, in other words, even if this opt out plan goes through and physicians buy into it, that there's still going to be ways of accessing the information. What this bill, if it were to pass into law, would basically strengthen the privacy of the doctor/patient relationship when it comes to drug prescription information. So I would just urge the body to support this legislation. Thank you, Mr. President.

SENATOR LARSEN: Thank you, Mr. President. I rise to support the committee amendment. I know that there is talk that there will be a floor amendment that will undo, and in essence, negate this committee amendment, and I urge you not to support that, but to in fact vote for this committee amendment and stay with this language. The committee's amendment protects the right of a prescriber, a doctor, to make prescriptions based on their best information and what's best for the patient. You have, as we've heard, data mining operations which the AMA actually has participated in, that mine information on what doctors prescribing patterns are, and use that data to market back to those physicians that they should in fact be buying a different brand, they should be stressing that particular pharmaceutical company's offering. And that that kind of marketing causes heavier, heavier stress, because they have private prescriber information on what that prescriber believes is in the medical best interest of the patient. House Bill 1346 will require that all entities that handle prescription information keep the patient identifiable and the prescriber identifiable data, confidential. Any amendment you see following ought to say "prescriber identifiable data". That that needs to be, remain confidential. House Bill 1346 will protect the

privacy rights of the patient and the prescriber. It will prohibit the use of data for pharmaceutical sales or marketing and will reduce prescription drug costs for patients, employers and the New Hampshire Medicaid Program. We have heard from the New Hampshire Attorney General's Office. The Commissioner of Health and Human Services has supported this bill. In all of the documents that we have received and throughout the hearings, they were in attendance. The AARP of New Hampshire and the New Hampshire Medical Society are all in strong support of this privacy of information. How would you like it...and in fact, when you go to a grocery store, if you have a buying card, you in fact are being tracked. And at some point, they could call you up and say, "Why are you buying so much Bud?" and they could report that to your health insurer that you are a heavy purchaser of alcohol at the grocery store. In the same way, the privacy rights of physicians of our state are being watched, violated, and I believe, unlawfully so. I think we need to make the law even stronger that this is a privacy right and it is good medical...makes good medical sense and good cost savings to the state, because physicians will not be encouraged to buy based on brand name; they will be encouraged to buy based on what is in the best medical interest. The bill...House Bill 1346 does not interfere with the use of prescriber or patient identifiable data for the purpose of insurance reimbursement, dispensing prescriptions, utilization review, public health research, or for law enforcement purposes. There are very clear...there's very clear language that exempts all of the activities that our own Department of Health and Human Services does on utilization review on prescribing...trying to encourage formulary use. The bill will not prohibit the use of prescriber identifiable data for the current drug utilization review under state Medicaid laws. It does not prohibit the use of prescriber identifiable data for analysis of drug formulary compliance for Medicaid or private insurance, and it does not prohibit pharmaceutical manufacturers from using prescriber identified data for sales and marketing analysis. There is no prohibition from using DI identified prescriber a data by zip code, town, geographic region or by medical specialty. So the only thing they're not going to be able to know under this is the doctor's name. They can bulk up who in Concord, New Hampshire, how many doctors prescribe Zocor and how...what effects it's having on that patient population. They can bulk identify, but having it be prescriber identified and physician identified is a violation of those prescribers privacy rights. I urge you to support the amendment in the calendar and to reject future amendments which look good, but if you have compared them with what the committee has worked hard to pass, you will see that it avoids the word "prescriber identified data", and it is therefore, a flawed amendment to follow.

SENATOR BARNES: Thank you, Mr. President.

SENATOR LARSEN: A question?

SENATOR BARNES: Yes. Thanks, Senator Larsen.

SENATOR LARSEN: Sure.

SENATOR BARNES: Is this the piece of legislation that I've received so many phone calls from, from constituents asking me to support?

SENATOR LARSEN: Yes it is, and the large group of AARP New Hampshire are all in support of this, as are all of the physicians that have contacted me, and I'm sure you. And all the emails and phone calls.

SENATOR BARNES: Thank you, Senator.

SENATOR CLEGG: Senator Larsen. Senator Larsen, can you tell me where in the amendment I could find where it says that Medicaid will be able to get the information?

SENATOR LARSEN: It's because it says "as identified by law" and Medicaid is a law that certain data needs to be included.

SENATOR CLEGG: Further question? So you're saying that while we're saying that everybody's information has to stay private, that is except for anyone who is in the Medicaid, or I suppose the Medicare system? Their information's not private under this bill.

SENATOR LARSEN: I don't know the specifics of what data is collected for prescriber information in order to encourage both Medicaid and Medicare patients to consider the most affordable. We are trying to keep our costs down in Medicare and Medicaid in our drug purchases. So if it's allowed by federal law or by our own state law, it says "or as otherwise provided by law" in the amendment, and that is the safeguard that both Medicare and Medicaid, and I have only information that Medicaid uses this information, and it's used to keep track of our formulary and our...keep our costs down in Medicaid, so it makes sense.

SENATOR CLEGG: One more follow up? So, Senator, can you tell me who's going to collect the data? If they no longer can collect the data and sell it based on physician, who's going to collect the data to give to Medicaid?

SENATOR LARSEN: It will still be collected because it will be aggregated data. It will just not be data that identifies which physician is doing what. So the data will be collected. It just will not identify the specific prescriber patterns.

SENATOR CLEGG: So someone will collect the data that they used to get paid for, someone will collect it now for nothing?

SENATOR LARSEN: I suspect there'll still be a market for aggregated data and, for those who are looking to do research, there may be a market there as well.

SENATOR CLEGG: Thank you, Senator.

SENATOR FOSTER: Thank you, Mr. President. I'm a co-sponsor of this legislation, and I co-sponsored it at the request of Representative Rosenwald who has worked it, and she and I have something in common. We're both married to physicians and they'll talk to us about what happens with drug reps and how they try to affect prescriber data patterns. To me, what this legislation is about is dollars and cents. That's what it's about. We hear about a lot of other things, and it's about privacy and so forth and so on, but for me, it's about cost. The biggest driver, one of the biggest drivers in healthcare costs, are prescription drug costs. We hear that all the time. We've talked about it in here in a variety of ways. We know down in Washington they talk about it as well. And what this data allows people to do is to target physicians who are prescribing perfectly good generic drugs which might cost say \$20 a prescription, and convince them, "You know, the latest and greatest, it's a little bit better, you ought to look at it", and their prescribing \$80. And guess who pays for that? All of us do. The way this information ought to be had with physicians is by going to CMEs, reading medical journals and so forth. To get it from sales people whose incentive is to sell, not to educate, I don't think is what we want to encourage. Will these folks be out of the system? No. They'll still have their jobs, but they won't have quite the edge that they have today.

So this is about cost, and we all want to say we want to keep our medical costs down. That's what I see this legislation as. You know, I have heard something about...from some folks, that somehow this will impact research. You know, sometimes we're in here and we say to ourselves, you know, we're a small state, we can't affect very much that goes on nationally. And, in this instance, I'd say exactly the same thing. If somehow, and I don't believe it's going to affect research at all. If it did, we'd have less than one half of one percent of the physicians in the United States of America. You know, if we were New York or California or Florida or something, a really large state, maybe we'd have to think about this hard. I don't think it's a problem anyway, but if it were one, us passing this law is not going to affect research one little bit. Thank you very much, Mr. President.

SENATOR GOTTESMAN: I think everything has been covered, Mr. President.

**The question is on the adoption of the committee amendment.**

**A roll call was requested by Senator Letourneau.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Burling, Green, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Larsen, Gatsas, Barnes, Letourneau, Estabrook, Morse, Hassan.**

**The following Senators voted No: Boyce, Flanders, Clegg, Martel.**

**Yeas: 18 - Nays: 4**

Senator Fuller Clark (Rule #42).

**Amendment Adopted.**

**Recess.**

**Out of recess.**

**The question is on the adoption of the bill as amended.**

**A roll call was requested by Senator Barnes.**

**Seconded by Senator Martel.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, Estabrook, Morse, Hassan.**

**The following Senators voted No: None.**

**Yeas: 22 - Nays: 0**

Senator Fuller Clark (Rule #42) on HB 1346.

**Adopted.**

**Ordered to third reading.**

**HB 1351**, relative to the rulemaking process. Executive Departments and Administration Committee. Ought to pass, Vote 3-0. Senator Fuller Clark for the committee.

SENATOR FULLER CLARK: It's in here. Anyway, Mr. President, thank you very much. I urge you to support the committee, which moved ought to pass on House Bill 1351. House Bill 1351 requires proposed legislation which contains rulemaking to include an explanation of intent for rules, allows standing policy of the House and Senate to review prelimi-

nary objections to proposed rules, and establishes a study committee on the rules process. House Bill 1351 represents important changes to the **TAPE CHANGE** Mr. President.

**Adopted.**

**Ordered to third reading.**

**HB 1521**, relative to the membership of the juvenile parole board. Executive Departments and Administration Committee. Ought to pass, Vote 3-0. Senator Kenney for the committee.

SENATOR KENNEY: Thank you, Mr. President. I move ought to pass on House Bill 1521 which will add two alternate members to the Juvenile Parole Board. While 90 percent of the time the entire Board is present, if a member is not present at the hearing, and a quorum is not reached, the child in question must be released. In addition, the committee heard that the Parole Board hearings are not open to the public. House Bill 1521 would allow two alternates to attend hearings and vote, if necessary, and the committee recommends ought to pass. Thank you, Mr. President.

**Adopted.**

**Ordered to third reading.**

**HB 1523**, relative to certain rulemaking authority of the commissioner of environmental services. Executive Departments and Administration Committee. Ought to pass, Vote 3-0. Senator Barnes for the committee.

#### **MOTION TO TABLE**

Senator Barnes moved to have HB 1523 laid on the table.

**Adopted.**

#### **LAI D ON THE TABLE**

**HB 1523**, relative to certain rulemaking authority of the commissioner of environmental services.

**HB 1526**, relative to the composition of the medical review subcommittee of the medical review board. Executive Departments and Administration Committee. Ought to pass, Vote 4-0. Senator Kenney for the committee.

SENATOR KENNEY: Thank you, Mr. President. I move ought to pass on House Bill 1526 which deletes a requirement that a medical director sit on the Medical Review Subcommittee. The provision was originally passed when health insurance concerns and complaints were prominent. The insurance industry has changed, and in the past three years the number of medical directors has been decreasing, and the need for the medical directors' expertise on the Medical Review Subcommittee has been decreasing as well. There has not been a complaint about insurance or access to care in the last three years, and the committee recommends ought to pass on House Bill 1526. Thank you, Mr. President.

**Adopted.**

**Ordered to third reading.**

**HB 1574**, relative to membership on the public employees deferred compensation commission. Executive Departments and Administration Committee. Ought to pass with amendment, Vote 5-0. Senator Kenney for the committee.

Senate Executive Departments and Administration

**April 26, 2006**

**2006-2078s**

**09/10**

### **Amendment to HB 1574**

Amend the title of the bill by replacing it with the following:

AN ACT relative to membership on the public employees deferred compensation commission and relative to criminal penalties for certain securities violations.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 Securities; Criminal Penalty. Amend RSA 421-B:24, I to read as follows:

I. Any person who willfully violates any provisions of RSA 421-B:3, 421-B:4, 421-B:5 or [a] ***fails to comply with an order from the secretary of state to cease and desist [order] or for an injunction issued pursuant to RSA 421-B:23, or who fails to comply with an order to pay a fine, penalty, rescission, restitution, or disgorgement greater than \$500 pursuant to RSA 421-B:10, 421-B:23, or 421-B:26,*** or who violates RSA 421-B:19 knowing that the statement was false or misleading in any material respect, shall be guilty of a class B felony. Each of the acts specified shall constitute a separate offense and a prosecution or conviction for any one of such offenses shall not bar prosecution or conviction for any other offense.

**2006-2078s**

### **AMENDED ANALYSIS**

This bill replaces the director of the office of securities regulation with the secretary of state or designee as a member of the public employees deferred compensation commission.

The bill also makes it a crime to fail to comply with certain orders of the secretary of state regarding securities violations.

### **MOTION TO TABLE**

Senator Kenney moved to have HB 1574 laid on the table.

**Adopted.**

### **LAID ON THE TABLE**

**HB 1574**, relative to membership on the public employees deferred compensation commission.

**HB 1589**, establishing a committee to study the feasibility of using certain state-owned buildings as transition housing for 17-year olds and 18-year olds who are ready to leave foster care or the youth development center. Executive Departments and Administration Committee. Ought to pass, Vote 3-0. Senator Fuller Clark for the committee.

### **MOTION TO TABLE**

Senator Fuller Clark moved to have HB 1589 laid on the table.

**Adopted.**

### **LAID ON THE TABLE**

**HB 1589**, establishing a committee to study the feasibility of using certain state-owned buildings as transition housing for 17-year olds and 18-year olds who are ready to leave foster care or the youth development center.

**HB 1274**, relative to certain disclosures to the department of health and human services. Health and Human Services Committee. Ought to pass with amendment, Vote 4-0. Senator Kenney for the committee.

**Health and Human Services**

**April 25, 2006**

**2006-2033s**

**01/09**

**Amendment to HB 1274**

Amend RSA 125:25-c, I as inserted by section 1 of the bill by replacing it with the following:

I. Notwithstanding any other provision of law, any health care practitioner who has an ownership interest in an entity which provides diagnostic or therapeutic services shall disclose such interest to the appropriate licensing authority regardless of whether any referrals are provided to the health care practitioner's entity or any other entity. In the disclosure to the appropriate licensing authority, the health care practitioner shall list all diagnostic and therapeutic services provided by any entity in which the health care practitioner has an ownership interest. Disclosure of ownership shall be made upon application for and renewal of the health care practitioner's license, on the application and renewal form.

SENATOR KENNEY: Thank you, Mr. President. I might not want to get out of my chair or stay up. Thank you, Mr. President. I move House Bill 1274 ought to pass with amendment. House Bill 1274 requires a healthcare practitioner to report an ownership interest in healthcare facilities and businesses to their respective licensing boards instead of the Department of Health and Human Services. The current requirement that reports of ownership be made to the Department is not an effective means of disclosure. The committee heard that some of it...some, if not most of the information, is filed away and never scrutinized. Under House Bill 1274, disclosure will be made to the patient and when the licensee applies for or renews a license. The committee amended the bill to remove the requirement that the percentage of ownership increase be included in the report. The percentage of the ownership information provides only a snapshot of the situation and may not be accurate or relevant at the time the service to the consumer. The committee recommends ought to pass with amendment on 1274. Thank you, Mr. President.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1427**, relative to guiding principles for developmentally disabled services. Health and Human Services Committee. Ought to pass with amendment, Vote 5-0. Senator Bragdon for the committee.

**Health and Human Services**

**April 25, 2006**

**2006-2038s**

**01/09**

**Amendment to HB 1427**

Amend RSA 171-A:1 as inserted by section 1 of the bill by replacing it with the following:

171-A:1 Purpose and Policy. The purpose of this chapter is to enable the department of health and human services to establish, maintain, implement and coordinate a comprehensive service delivery system for developmentally disabled persons. The policy of this state is that persons with developmental disabilities and their families be provided services that emphasize community living and programs to support individuals and families, beginning with early intervention, and that such services and programs shall be based on the following:

I. Participation of people with developmental disabilities and their families in decisions concerning necessary, desirable, and appropriate services, recognizing that they are best able to determine their own needs.

II. Services that offer comprehensive, responsive, and flexible support as individual and family needs evolve over time.

III. Individual and family services based on full participation in the community, sharing ordinary places, developing meaningful relationships, and learning things that are useful, as well as enhancing the social and economic status of persons served.

IV. Services that are relevant to the individual's age, abilities, and life goals, including support for gainful employment that maximizes the individual's potential for self-sufficiency and independence.

V. Services based on individual choice, satisfaction, safety, and positive outcomes.

VI. Services provided by competent, appropriately trained and compensated staff.

SENATOR BRAGDON: Thank you, Mr. President. I move HB 1427 ought to pass with amendment. The RSA addressing the delivery system for developmentally disabled persons entitled "purpose and policy" provides only a purpose statement, no policy statement. HB 1427 adds a statement of policy as well a six guiding principles: self determination, flexible support, community participation, relevant individual goals, positive outcomes, and appropriate staff to provide legislative and community guidance. The committee amended the bill by deleting the word "shall" from the language in order to avoid the possibility that the guiding principles would be interpreted as mandates, and the committee recommends ought to pass with amendment. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1437**, establishing a committee to study the effects of current state and federal laws on illegal drugs and the possession and use of such drugs. Health and Human Services Committee. Inexpedient to legislate, Vote 3-2. Senator Martel for the committee.

SENATOR MARTEL: Thank you very much, Mr. President. I move House Bill 1437 inexpedient to legislate. While the issues...while the issues in House Bill 1437 seek to address, including the effects of current state and federal laws on illegal drugs and possession and use of such drugs as well as the effects of...and current state and federal drug laws from a financial and social perspective on state, county, and local communities, not to mention the costs of incarceration, the cost of welfare, and the cost of law enforcement are of interest. The broad scope of House Bill 1437, excuse me, would require more attention than a legislative study during an election year allows, and the committee recommends inexpedient to legislate, and I want to thank you, Mr. President.



**Committee report of inexpedient to legislate is adopted.**

**HB 1461**, establishing a task force to study Temporary Assistance to Needy Families (TANF) benefits. Health and Human Services Committee. Ought to pass with amendment, Vote 4-0. Senator Fuller Clark for the committee.

Sen. Fuller Clark, Dist. 24

**April 24, 2006**

**2006-2001s**

**05/03**

**Amendment to HB 1461**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a task force to study Temporary Assistance to Needy Families (TANF).

Amend section 2 of the bill by inserting after paragraph XII the following new paragraphs:

XIII. A member of Families in Transition-NH, appointed by that organization.

XIV. A child care professional, appointed by the governor.

XV. The commissioner of the department of employment security, or designee.

XVI. A professional in the field of adult education, appointed by the governor.

XVII. A representative of the governor's commission on disability, appointed by that organization.

XVIII. A representative of the community action program, appointed by that organization.

Amend section 3 of the bill by replacing all after paragraph VI with the following:

VII. Consider issues relative to child care in the context of providing assistance and meeting welfare-to-work goals under the TANF program.

VIII. Review changes to the TANF program made by the Deficit Reduction Act of 2005, Public Law 109-171. The task force also shall review how the current state TANF program may need to be changed in order to comply with the amended federal law.

IX. Recommend those changes in the levels and structure of the TANF grant, that the task force determines are necessary and desirable, to the governor, the commissioner of health and human services, the speaker of the house of representatives, and the president of the senate.

X. Make recommendations for any proposed legislation the task force deems necessary.

**2006-2001s**

**AMENDED ANALYSIS**

This bill establishes a task force to study cash assistance provided to eligible families with dependent children under the Temporary Assistance to Needy Families (TANF) program. The bill also directs the task force to study the federal reauthorization of TANF and to recommend appropriate changes at the state level.

SENATOR FULLER CLARK: Thank you very much, Mr. President. I move House Bill 1437...1431...there's 1461...ought to pass with amendment. The TANF program has not been looked at by the legislature since the program was started in the mid 1990s. Under House Bill 1461 a com-

prehensive task force representing a broad constituency will look at the costs of living, housing, transportation, childcare and other items which affect the ability of TANF clients to work. The task force will also answer the question of whether TANF grants provide for the needs of clients as planned. In addition, House Bill 1461 is timely. Since the bill was filed, there have been many changes at the federal level. The committee amended the bill by adding certain members to the task force and directing the task force to consider how the changes and directions of TANF at the federal level will affect the situation in New Hampshire. And, given the consideration that will be given later this afternoon to House Bill 1331, we recommend especially that this bill ought to pass with amendment. Thank you, Mr. President and that's regarding House Bill 1461. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1546**, relative to patient information. Health and Human Services Committee. Ought to pass, Vote 5-0. Senator Kenney for the committee.

SENATOR KENNEY: Thank you, Mr. President. I move House Bill 1546 ought to pass. Under current law, the Patients' Bill of Rights applies only to the hospital setting, and another distinct set of "Patients' Rights" is placed for nursing homes. House Bill 1546 will expand the "patient information" paragraph under current law such that the language will apply in any healthcare setting. The committee recommends ought to pass on House Bill 1546. Thank you, Mr. President.

**Adopted.**

**Ordered to third reading.**

**HB 298**, relative to consolidating statutes relating to driving while intoxicated. Judiciary Committee. Ought to pass, Vote 4-0. Senator Gottesman for the committee.

SENATOR GOTTESMAN: Thank you, Mr. President. I move House Bill 298 ought to pass. This bill is the result of two year's work and is a compilation of our DWI statutes into one chapter. Right now, law enforcement officers, game wardens, attorneys, judges, legislators and all others searching our statutes must look in many different chapters in order to view all statutes relative to operating while under the influence of alcohol or illegal drugs. This compilation makes no policy changes, but merely cleans up and reorganizes current statutes. The Judiciary Committee recommends that this legislation be adopted and asks your support.

SENATOR BARNES: Thank you, Mr. President. Thank you, Senator. I have a lot of faith in you and the committee that you sit on, and you have just said that, putting all of this together, nothing has slipped through the cracks and we haven't lost any of the good laws that we have in place here in the state. We have some of the better laws in the country on DWI?

SENATOR GOTTESMAN: I asked the very same question, as did Senator Foster, to make sure we were not losing anything or gaining any unintended consequences, and we were assured that that was the case. We both tried to review it and we feel that it's all covered.

SENATOR BARNES: Thank you very much, and thank you for your effort over there at the committee.

SENATOR GOTTESMAN: You're welcome.

**Adopted.**

**Ordered to third reading.**

**HB 397**, relative to authority to file an abuse or neglect petition under the Child Protection Act. Judiciary Committee. Inexpedient to legislate, Vote 3-0. Senator Gottesman for the committee.

SENATOR GOTTESMAN: Thank you, Mr. President. I move House Bill 397 inexpedient to legislate. This bill sought to prevent anyone other than DCYF from filing abuse and neglect petitions under the Child Protection Act. The Judiciary Committee feels that there is nothing to be gained from precluding an individual or their legal counsel from filing these actions and providing that only individuals within one state agency be allowed to bring the charges forward. The entire purpose of the Child Protection Act is to protect children and should, by its very nature, allow others to bring these cases to the court's attention. Therefore, the Judiciary Committee recommends that this legislation be killed and asks your support. Thank you.

**Committee report of inexpedient to legislate is adopted.**

**HB 459**, relative to access to criminal records and enhanced 911 system records. Judiciary Committee. Ought to pass, Vote 4-0. Senator Letourneau for the committee.

SENATOR LETOURNEAU: Thank you, Mr. President. I move House Bill 459 ought to pass. This bill was filed at the request of the Department of Safety in order to take care of a few items that have arisen. While criminal information contained in data base is to be shared only with law enforcement officers, those entering the information into the computer systems were essentially breaking the law. Also, because of RSA 91-A, individuals could circumvent the system by seeing someone's name in the data base, determine that they have a criminal record. House Bill 459 corrects these two situations. Members of the Attorney General's Office, as well as county attorneys, are considered law enforcement officials for the purposes of this legislation and would be able to obtain information. While the committee members were quite surprised to learn that 911 records are exempt from the right-to-know provisions, this bill does not change anything in that regard. Therefore, the Judiciary Committee recommends that this legislation be adopted and asks for your support. Thank you.

**Adopted.**

**Ordered to third reading.**

**HB 529**, relative to the determination of parental rights and responsibilities. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Clegg for the committee.

**Senate Judiciary**

**April 25, 2006**

**2006-2037s**

**05/04**

### **Amendment to HB 529**

Amend the bill by replacing all after the enacting clause with the following:

1 Parental Rights and Responsibilities. Amend RSA 461-A:2, I(a) to read as follows:

(a) Support frequent and continuing contact between each child and both parents *and, whenever appropriate, comparable parental rights and responsibilities.*

2 Effective Date. This act shall take effect 60 days after its passage.  
**2006-2037s**

#### AMENDED ANALYSIS

This bill encourages the court to support comparable parental rights and responsibilities whenever appropriate.

SENATOR CLEGG: Thank you, Mr. President. I move House Bill 529 ought to pass with amendment. The bill is the first time that the terminology "comparable parenting" has been enacted into New Hampshire law. It clearly states that the court should consider the policy of our state to be promoting comparable parental rights...rights and responsibilities. It's a big step in the right direction. Now there are those who say that we should kill this amendment and go with the original bill. I'm not one. The original bill said, if we can't use the comparable parenting...if one parent...you start with comparable parenting, but if one parent was denied the custody of the children, that the court had to put in writing on a public document, the reason. People like me were concerned that that reason might be a false accusation and forcing the court to put a false accusation on a document that is available to the public is not where I wanted to go. I would have loved to have had more time to work on this bill, and I think many of the committee members feel the same way. If we had more time, we might be able to do more, but in the limited amount of time, we've been able to agree to put the term "comparable parenting" in the statutes, look to the courts to start using it as a starting point, and move forward. And I'm sure we're going to see more of this in the years go come. But I firmly believe that by putting comparable parenting into the statutes, that we've taken a step in the right direction. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**A roll call was requested by Senator Green.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: None.**

**Yeas: 23 - Nays: 0**

**Adopted.**

**Ordered to third reading.**

**HB 587**, relative to child abuse and neglect investigations by the department of health and human services. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Gottesman for the committee.

**Sen. Gottesman, Dist. 12**

**April 25, 2006**

**2006-2027s**

**05/04**

**Amendment to HB 587**

Amend RSA 169-C:34, VI as inserted by section 1 of the bill by replacing it with the following:

VI. At the first contact in person, any person investigating a report of abuse or neglect on behalf of the department shall verbally inform the parents of a child suspected of being a victim of abuse or neglect of the specific nature of the charges and that they are under no obligation to allow a social worker or state employee on their premises or surrender their children to interviews unless that social worker or state employee is in possession of a court order to that effect. Upon receiving such information, the parent shall sign a written acknowledgement indicating that the information required under this paragraph was provided by the person conducting the investigation. The parent and department shall each retain a copy of the acknowledgment.

SENATOR GOTTESMAN: Thank you, Mr. President. I move House Bill 587 ought to pass with amendment. This bill was introduced to deal with the rights of parents when there have been reports of abuse and neglect. The House version required DCYF workers to inform parents of their rights, that they are suspected of abuse and/or neglect, and that they are not required to allow them entrance into their home or to interview their child. The Judiciary Committee's proposed amendment clarifies that the DCYF worker will verbally inform the parents of these rights and have the parent sign a written acknowledgment indicating that the information was provided. We feel that this is an important documentation that the DCYF worker has performed his or her duty under the statute. Therefore, the Judiciary Committee recommends that this legislation be adopted as amended and asks your support. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 588**, relative to suspension of drivers' licenses after a motor vehicle accident. Judiciary Committee. Inexpedient to legislate, Vote 4-0. Senator Foster for the committee.

SENATOR FOSTER: Thank you, Mr. President. I move House Bill 588 inexpedient to legislate. This bill sought to mandate that persons caught driving while intoxicated who have no automobile insurance will have a hearing before the revocation of their driver's license. The Judiciary Committee had problems with providing special rights to individuals who choose to drive without insurance, even though our state does not require it. After considerable discussion regarding due process during the proceedings versus how much should the state protect individuals who have made the decision to drive without insurance, the Judiciary Committee recommends that the legislation be killed, thinking it was unnecessary and asks for your support. Thank you, Mr. President.

**Committee report of inexpedient to legislate is adopted.**

**HB 591**, relative to the inclusion of health insurance in the calculation of child support. Judiciary Committee. Inexpedient to legislate, Vote 5-0. Senator Roberge for the committee.

**SENATOR ROBERGE:** Thank you, Mr. President. I move House Bill 591 inexpedient to legislate. This bill sought to allow a parent to include the entire amount paid for health insurance in the formula used in calculating child support. The public hearing indicated that there are a number of parents who are angered by having to pay co-payments for treatments they feel their child should not have. Committee members were concerned about the scenarios whereby a parent could remarry and thus deduct the entire cost of health insurance for the new family from child support. The bill seemed to create more problems than it solved. Therefore, the Judiciary Committee recommends this legislation be killed and asks for your support.

**Committee report of inexpedient to legislate is adopted.**

**HB 592**, relative to the child support guidelines. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Letourneau for the committee.

**Senate Judiciary**  
**April 25, 2006**  
**2006-2036s**  
**05/04**

#### **Amendment to HB 592**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to minimum support orders.

Amend the bill by deleting sections 1 and 2 and renumbering the original sections 3 and 4 to read as 1 and 2, respectively.

**2006-2036s**

#### **AMENDED ANALYSIS**

This bill permits the court to issue a minimum child support order of less than \$50 per month in appropriate cases.

**SENATOR LETOURNEAU:** Thank you, Mr. President. I move House Bill 592 ought to pass with amendment. This bill sought to allow deductions for court-ordered educational expenses as well as permitting a parent to deduct his or her own college loan payments from a child support obligations. The third section of the bill enables the court to order less than the current \$50 minimum child support payment. Testimony indicated that judges feel that, regardless of the financial circumstances of the parents, they must order a minimum of \$50 in child support. The Judiciary Committee amendment deletes the first two sections of the bill which sought to allow educational expense deductions and retains only the third section which deals with the flexibility for the court in determining child support payment amounts. The Judiciary Committee recommends that this legislation be adopted with amendment and asks for your support. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1116**, relative to service of the notice to quit and writ of summons in landlord tenant actions. Judiciary Committee. Ought to pass with amendment, Vote 4-1. Senator Roberge for the committee.

**Senate Judiciary**

**April 25, 2006**

**2006-2035s**

**05/04**

**Amendment to HB 1116**

Amend the bill by replacing section 1 with the following:

1 Change from Notice to Quit to Eviction Notice. Amend the following RSA sections by replacing "notice to quit" with "eviction notice": RSA 104:31; 126-A:57; 130-A:8-a; 540:2; 540:4; and 540:9-a.

Amend the bill by replacing section 3 with the following:

3 Eviction Notice; Reference to Notice to Quit in Existing Lease. Amend RSA 540:3 to read as follows:

540:3 [~~Notice to Quit~~] **Eviction Notice.**

I. If a nonresidential tenant neglects or refuses to pay rent due and in arrears, upon demand, 7 days' notice shall be sufficient; if the rent is payable more frequently than once in 3 months, whether such rent is due or not, a notice equal to the rent period shall be sufficient, and 3 months' notice shall be sufficient in all cases.

II. For all residential tenancies, 30 days' notice shall be sufficient in all cases; provided, however, that 7 days' notice shall be sufficient if the reason for the termination is as set forth in RSA 540:2, II(a), (b), or (d).

III. The **eviction** notice [~~to quit~~] shall state with specificity the reason for the eviction.

IV. If the **eviction** notice [~~to quit~~] is based on nonpayment of rent, the notice shall inform the tenant of his **or her** right, if any, to avoid the eviction by payment of the arrearages and liquidated damages in accordance with RSA 540:9.

***V. For the purpose of interpreting or enforcing any lease or rental agreement for residential tenants in effect on July 1, 2006, a notice to quit shall be deemed an eviction notice under this section.***

Amend the bill by replacing section 5 with the following:

5 Effective Date. This act shall take effect January 1, 2007.

**2006-2035s**

**AMENDED ANALYSIS**

This bill changes the name of the notice to quit to an eviction notice and directs the supreme court to make forms for an eviction notice and demand for rent available on the district court's website.

SENATOR ROBERGE: Thank you, Mr. President. I move House Bill 1116 ought to pass with amendment. This bill changes the archaic term "Notice to Quit" to "Eviction Notice," something far more individuals will understand. The House version of the bill sought to allow police officers to be able to serve these notices. Testimony at our hearing indicated that police do not want this additional duty and that our local county sheriffs continue to do an excellent job in this area. The committee amendment deletes service by other than sheriffs. It also clarifies that either term, "notice to quit", or "eviction notice", shall be allowable within the written lease. Therefore, the Judiciary Committee recommends that this legislation be adopted. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1285**, making certain technical corrections to the adoption statute. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Foster for the committee.

**Senate Judiciary**

**April 26, 2006**

**2006-2064s**

**05/04**

### **Amendment to HB 1285**

Amend the title of the bill by replacing it with the following:

AN ACT relative to adoption.

Amend RSA 170-B:6, I(c)(2) as inserted by section 2 of the bill by replacing it with the following:

***(2) In New Hampshire, the registration form shall be supplied by the office of child support services. The form shall require the claimant to affirmatively express his intent to support the child to the best of his ability.***

Amend RSA 170-B:22, I as inserted by section 8 of the bill by replacing it with the following:

I. Within 7 days after the final decree is filed, the register of probate shall send ***a hard copy of the report of the adoption*** to the town clerk of the town where the adoptee was born ~~and~~, to the commissioner, ~~[by mail a report of the adoption]~~ ***and to the department of state, division of vital records administration***. The ~~[bureau of vital records and health statistics]~~ ***department of state, division of vital records administration*** shall provide suitable forms for such reports.

Amend the bill by inserting after section 12 the following and renumbering the original sections 13 and 14 to read as 14 and 15, respectively:

13 Persons Not Required to Surrender. Amend RSA 170-B:7, V to read as follows:

V. A parent whose parental rights have been terminated pursuant to RSA 170-C; ~~[or]~~

***V-a. An alleged father who is convicted of an offense under RSA 632-A:2, RSA 632-A:3, RSA 632-A:4, or RSA 639:2 which resulted in conception of the adoptee; or***

**2006-2064s**

### **AMENDED ANALYSIS**

This bill corrects an obsolete reference to the bureau of vital records and health statistics and clarifies the effect of an adoption decree on inheritance rights and privileges.

The bill also clarifies the putative father registration process and requires putative fathers to indicate their intent to support the child when they sign the registry.

The bill clarifies the circumstances under which a parent surrendering parental rights has a right to counsel. The bill also provides that the surrender of parental rights is not required of an alleged father who is convicted of an offense that resulted in the conception of the adoptee.

SENATOR FOSTER: Thank you, Mr. President. I move HB 1285 ought to pass with amendment. This bill makes technical corrections to the



adoption statute. For example, it deals with rights of inheritance and rare occasions where the child dies during the adoption process, substitutes "adoptee" for the term "minor child" and changes the word "consent" to "agrees". The committee amendment corrects a drafting error which accidentally omitted the word "vital" from the Vital Records Administration's name. The second section of the amendment deals with the affirmative expression that, in refusing to surrender rights, a parent...the father will affirmably state that he will support the child to the best of his ability. Lastly, the amendment makes clear that those convicted of rape of the mother are exempt from the requirement of needing to surrender their parental rights. The Judiciary Committee recommends that this legislation be adopted with amendment and asks for your support. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1377**, relative to certain mandatory minimum sentences. Judiciary Committee. Ought to pass, Vote 3-1. Senator Gottesman for the committee.

SENATOR GOTTESMAN: Thank you, Mr. President. I move House Bill 1377 ought to pass. This bill is relative to certain mandatory minimum sentences and makes some changes based on the recommendations of a House Criminal Justice Committee's work. The bill deletes the minimum mandatory three-year sentence for a first offense of felonious use of a firearm. The committee feels that the adoption of this legislation...the adoption of this provision will provide judges with the ability to look at the particular circumstances in a given case and to take into account the accused individual's record. This legislation also defines incest committed against a person under the age of eighteen as a violent crime for the purposes of annulment of a record. The Judiciary Committee recommends that this legislation be adopted and asks your support. Thank you.

**Adopted.**

**Ordered to third reading.**

**HB 1386**, relative to exceptions to the prohibition on carrying and selling knives. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Letourneau for the committee.

**Senate Judiciary**

**April 25, 2006**

**2006-2046s**

**04/10**

### **Amendment to HB 1386**

Amend RSA 159:17 as inserted by section 1 of the bill by replacing it with the following:

159:17 Exceptions. The provisions of the preceding section shall not apply to officers of the law, to persons holding [~~hunters~~<sup>2</sup>] **hunting or fishing** licenses when lawfully engaged in hunting **or fishing**, to employees of express companies while on duty, [~~or~~] to watchmen while on duty, **to emergency medical technicians, firefighters, or military personnel while in the course of their duties, or to duly authorized**

***military or civic organizations when parading, or to the members thereof when at, or going to or from, their customary places of assembly.***

SENATOR LETOURNEAU: Thank you, Mr. President. I move House Bill 1386 ought to pass with amendment. This bill clarifies that certain individuals, such as hunters, can be exempt from the prohibition of sale or possession of knives and knife-like weapons. The Judiciary Committee amendment merely adds "fishermen" to those with fishing licenses to the group. The House committee had discussed adding them but somehow it was not done. The Judiciary Committee recommends that this legislation be adopted with amendment and asks for your support. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1480**, amending the provisions relative to registration of criminal offenders. Judiciary Committee. Ought to pass, Vote 4-0. Senator Foster for the committee.

SENATOR FOSTER: Thank you, Mr. President. I move House Bill 1480 ought to pass. This bill corrects an error whereby some persons convicted of aggravated felonious sexual assault were not included in the public registration list - the perpetrator in the violent rape of a child. Obviously, this was never the intention of the legislators when the original list was established. The bill also makes clear the crime of aggravated felonious sexual assault has occurred where the act is committed against a young person between the ages of thirteen and sixteen and the perpetrator is three years or more older than the victim. Therefore, the Judiciary Committee recommends that this legislation be adopted and asks for your support. Thank you.

**Adopted.**

**Ordered to third reading.**

**HB 1516**, relative to the modification and enforcement of child support orders. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Roberge for the committee.

**Senate Judiciary**

**April 25, 2006**

**2006-2039s**

**05/04**

### **Amendment to HB 1516**

Amend the bill by replacing all after the enacting clause with the following:

2 Child Support Guidelines; Modification of Order; Grounds for Modification. Amend RSA 458-C:7, I to read as follows:

I. ~~[The obligor or obligee may apply to the court or, when the department of health and human services has issued a legal order of support pursuant to RSA 161-C, to the department, whichever issued the existing order, for modification of such order 3 years after the entry of the last order for support, without the need to show a substantial change of circumstances. This section shall not prohibit the obligor or obligee from~~

applying at any time for a modification based on substantial change of circumstances.] *A child support order may be modified, upon application to the court, if:*

*(a) Three years have elapsed since the entry of the last order for support;*

*(b) Either party demonstrates a substantial change in circumstances;*

*(c) The parties agree to a change in the child support amount;*

*(d) The court has removed the child from the custody of the obligee pursuant to RSA 169-B, RSA 169-C, RSA 169-D, or RSA 463 or from the residential responsibility of the obligee under RSA 461-A; or*

*(e) The parties agree on a change in residential responsibility or designation of obligee.*

2 Effective Date. This act shall take effect January 1, 2007.

2006-2039s

### AMENDED ANALYSIS

This bill permits modification of a child support order based on a change in custody under the juvenile statutes or guardianship statute, a change in residential responsibility, or by mutual agreement of the parties.

SENATOR ROBERGE: Thank you, Mr. President. I move House Bill 1516 ought to pass with amendment. This bill, as amended by the committee, permits modification of child support order based on a change of custody under the juvenile statutes or guardianship statute, a change in residential responsibility, or by mutual agreement of the parties. The House version of the bill permitted a child support order to be reviewed again if there was an error. The Judiciary Committee feels strong that, if an error has been made, the parties and their legal counsel did not raise the issue in a timely manner, then these items should not be continuously coming back to the courts. The committee was in agreement with providing better statutory clarification of the circumstances whereby adjustments can be requested. The Judiciary Committee recommends that this legislation be adopted ought to pass as amended. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1583**, relative to grounds for modification of parental rights and responsibilities. Judiciary Committee. Ought to pass with amendment, Vote 4-0. Senator Clegg for the committee.

**Senate Judiciary**

**April 19, 2006**

**2006-1922s**

**05/10**

### Amendment to HB 1583

Amend the bill by replacing section 1 with the following:

1 New Subparagraph; Grounds for Modification of Parental Rights and Responsibilities; Preference of Mature Minor. Amend RSA 461-A:11, I by inserting after subparagraph (d) the following new subparagraph:

(e) If the court finds by clear and convincing evidence that a minor child is of sufficient maturity to make a sound judgment about his

or her proper custody, the court may give substantial weight to the preference of the mature minor child as to the parent with whom he or she wants to live. Under these circumstances, the court shall also give due consideration to other factors which may have affected the minor child's preference, including, but not limited to, whether the minor child's preference was based on undesirable or improper influences.

**2006-1922s**

#### AMENDED ANALYSIS

This bill permits the court to give substantial weight to the preference of a mature minor in the modification of parental rights and responsibilities.

SENATOR CLEGG: Thank you, Mr. President. I move House Bill 1583 ought to pass with amendment. The bill sought to permit the court to modify a prior determination of parental rights and responsibilities every three years as well as to give substantial weight to the preference of a mature minor in the modification of these rights and responsibilities. The Judiciary Committee had a number of concerns with the first section of the bill and felt that it did not act in the best interest of the stability and support of a family unit. The committee was in total agreement with providing that mature children's parental preferences be considered by a judge when making determinations and added the "clear and convincing" standard to the threshold to be used. The Judiciary Committee amendment also directs the court to give due consideration to other factors which may have affected the minor child's preference, including but not limited to, whether the minor child's preference was based on undesirable or improper influences. The Judiciary Committee recommends that this legislation be adopted with amendment and asks for your support.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1585**, relative to enforcement of orders regarding parenting plans. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Gottesman for the committee.

**Senate Judiciary**

**April 20, 2006**

**2006-1951s**

**05/04**

#### Amendment to HB 1585

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Parental Rights and Responsibilities; Enforcement of Parenting Plan. Amend RSA 461-A by inserting after section 4 the following new section:

461-A:4-a Judicial Enforcement of Parenting Plan. Any motion for contempt or enforcement of an order regarding an approved parenting plan under this chapter, if filed by a parent, shall be reviewed by the court within 30 days.

2 Effective Date. This act shall take effect 60 days after its passage.

**2006-1951s****AMENDED ANALYSIS**

This bill requires the court to review a parent's motion for contempt or enforcement of a parenting plan within 30 days.

SENATOR GOTTESMAN: Thank you, Mr. President. I move House Bill 1585 ought to pass with amendment. This bill was introduced in order to establish an expedited hearing process for motions to enforce parenting plans. The committee was very understanding of the difficult situation when children may be used as pawns in a power struggle between parents. Situations arise where the immediate review of court pleadings by the court is required to resolve visitation and custody related issues. The Judiciary Committee amendment simply states that any motion for contempt or enforcement of an order regarding an approved parenting plan shall be reviewed by the court within thirty days. We feel that this will provide adequate guidance to the court that parents are depending upon them to enforce their orders. Therefore, we move ought to pass with amendment and ask for your support.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1625**, establishing penalties for guardians ad litem who fail to file reports which are required by the court. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Roberge for the committee.

**Senate Judiciary**

**April 10, 2006**

**2006-1717s**

**09/10**

**Amendment to HB 1625**

Amend the title of the bill by replacing it with the following:

**AN ACT** establishing penalties for guardians ad litem who fail to file reports.

Amend RSA 490:26-g as inserted by section 1 of the bill by replacing it with the following:

490:26-g Guardians Ad Litem; Failure to File Required Reports. A guardian ad litem who, without good cause, fails to file a report required by any court or statute by the date the report is due may be subject to a fine, established by supreme court rule, of not less than \$100 and not more than the amount of costs and attorneys fees incurred by the parties to the action for the day of the hearing. The guardian ad litem shall not be subject to the fine under this section if, at least 10 days prior to the date the report is due, he or she files a motion requesting an extension of time to file the report. The court clerk shall report a guardian ad litem who fails to file a report by the date the report is due to the guardian ad litem board. The court clerk and the guardian ad litem board shall make such report available to the public.

**2006-1717s**

**AMENDED ANALYSIS**

This bill establishes penalties for guardians ad litem who fail to file reports which are required by the court or by statute.

SENATOR ROBERGE: Thank you, Mr. President. I move 1625, House Bill 1625 ought to pass as amended. This bill sought to establish mandatory fines for guardians ad litem who fail to file reports in the court on time. It is totally unfair to the parties, their legal representation, and the courts, to arrive at a hearing and be presented with copies of the GAL's recommendations or report as one walks into court. The committee had concerns with the mandatory fine and amended the bill to be discretionary on the judges' part. We do understand that there can be extenuating circumstances such as a death in the family or an unforeseen illness that would legitimately delay preparation of a report. The committee amendment allows a judge or master to make the determination based upon the particular circumstance while the matter is before the court. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1761**, relative to hold over tenants in vacation or recreational rental units. Judiciary Committee. Ought to pass with amendment, Vote 5-0. Senator Roberge for the committee.

**Senate Judiciary**

**April 26, 2006**

**2006-2051s**

**05/10**

### **Amendment to HB 1761**

Amend the bill by replacing section 1 with the following:

1 New Chapter; Vacation or Recreational Rental Units. Amend RSA by inserting after chapter 540-B the following new chapter:

#### **CHAPTER 540-C**

##### **VACATION OR RECREATIONAL RENTAL UNITS**

**540-C:1 Covered Units.** This chapter shall apply to all dwelling units which are:

I. Rented for recreational or vacation use at least one month out of the year; and

II. Rented for residential purposes by persons who have no other residence, during part or all of the non-recreational or vacation period.

**540-C:2 Lease Required.** In order to evict a tenant from a dwelling unit covered by this chapter without fulfilling the requirements of RSA 540, the owner or the owner's authorized agent and the tenant shall sign a lease which:

I. States the date by which the tenant shall vacate the premises; and

II. Informs the tenant that if he or she remains on the premises after the expiration of the lease without the written permission of the owner or the owner's authorized agent, the tenant may be removed from the premises pursuant to a writ of possession obtained pursuant to RSA 540-C:3.

**540-C:3 Removal Upon Expiration of Lease; Writ of Possession.** Upon presentation of an expired lease that meets the requirements of RSA 540-C:2 and the filing of a petition attesting to the failure of the tenant to vacate the dwelling unit on the date specified, the court shall immediately issue ex parte a writ of possession to the owner or the owner's authorized agent which shall be held by the court pending further hear-

ing. The owner, owner's representative, or sheriff shall serve notice of any petition filed under this section upon the tenant personally or by leaving it at the dwelling unit. Proof of service shall be shown by a true and attested copy of the petition accompanied by an affidavit of service, but the affidavit need not be sworn under oath. The tenant, within 2 business days of the date of service, may request a hearing, which shall be held within 5 days of the tenant's request. The sole issue at the hearing shall be whether the expiration date of the lease was extended by agreement. If the tenant fails to request a hearing within 2 business days of the date of service, the owner shall immediately be granted the writ of possession.

540-C:4 Personal Property of Former Tenant. The owner or the owner's authorized agent shall maintain and exercise reasonable care in the storage of the personal property of a former tenant who has vacated the premises, either voluntarily or pursuant RSA 540-C:3, for a period of 28 days after the date upon which such tenant has vacated. During this period, the former tenant shall be allowed to recover personal property without payment of rent or storage fees. After the 28-day limit has expired, such personal property may be disposed of without notice to the former tenant.

SENATOR ROBERGE: Thank you, Mr. President. I move House Bill 1761 ought to pass as amended. This bill deals with the narrow circumstances whereby a rental property is worth a significant difference on and off season. Leases in these situations are written with specific dates when the tenant must vacate the premise. The Judiciary Committee amendment stipulates that a person still must obtain a court order to have the tenant evicted and provides the same protection of personal property. The committee feels that this legislation as amended, provides a reasonable balance of due process for the tenant with acknowledgement of the property owner's desire to market during a high season. Therefore, the Judiciary Committee recommends that this legislation be adopted as amended and asks your support.

### **Amendment adopted.**

Senator Gottesman offered a floor amendment.

Sen. Gottesman, Dist. 12

Sen. Clegg, Dist. 14

**May 3, 2006**

**2006-2178s**

**05/04**

### **Floor Amendment to HB 1761**

Amend the title of the bill by replacing it with the following:

AN ACT relative to hold over tenants in vacation or recreational rental units and relative to lobbyist reporting requirements.

Amend the bill by replacing all after section 2 with the following:

3 Lobbyists Reporting Requirements. Amend RSA 15:6, I to read as follows:

I. Each lobbyist shall file with the secretary of state itemized statements under oath of:

(a) All fees received from any lobbying client [~~for all purposes:~~

(b) ~~What portion of the total fees received~~ **that** are related, directly or indirectly, to lobbying services.

~~(c)~~ **(b)** All expenditures made from lobbying fees, including by whom paid or to whom charged.

~~[(d)]~~ (c) Any honorarium or expense reimbursement, as defined in RSA 15-B, or political contribution, as defined in RSA 664, made by the lobbyist in his or her professional or personal capacity, on behalf of the lobbyist, the partnership, firm, or corporation or by the lobbyist on behalf of the client or employer or by a family member of the lobbyist. The statements shall be open to public inspection. For the purposes of this chapter, "family member" shall mean any person related to and living in the same domicile as the lobbyist, who shares a common economic interest in the expenses of daily living, including, but not limited to, a spouse, child, or parents.

4 Lobbyist Reporting Requirements. Amend RSA 15:6, V(d) to read as follows:

(d) For each client, the full name and business address of the client, the scope of the representation or lobbyist services being paid for, the gross amount of all fees received from that client, not reduced by any expenses, ~~[for all purposes, a statement of what portion of the gross fees received]~~ **that** are related, directly or indirectly, to lobbying services, a statement of the aggregate total of fees received that are related, directly or indirectly, to lobbying services during the calendar year, and a statement of any fee payment due, but not yet paid.

5 Effective Date.

I. Sections 1 and 2 of this act shall take effect January 1, 2007.

II. The remainder of this act shall take effect June 2, 2006 at 12:01 a.m.

## 2006-2178s

### AMENDED ANALYSIS

This bill permits a law enforcement officer to remove a holdover tenant from a vacation or recreational rental unit without judicial process if the parties have signed a lease that specifies the date by which the tenant shall vacate the premises and that the tenant may be removed from the property if the tenant remains beyond the date specified. The bill exempts vacation and recreational rental units from the eviction process in RSA 540.

This bill also limits the financial disclosure requirement for lobbyists to fees related to lobbying activity rather than all fees received by a client.

SENATOR GOTTESMAN: Thank you, Mr. President. I'm going to move amendment 2178s.

SENATOR GATSAS (In the Chair): 2178s has been proposed. Will you speak to the amendment as it's being passed out please?

SENATOR GOTTESMAN: Thank you, Mr. President. Many of you may remember we passed an ethics bill and that has had some unintended consequences. A law firm that has a lobbying arm in it, is now feeling as if they have to report not only the legal...the lobbying fees, but the legal fees that are charged to the same client, even though the services rendered are not for lobbying services. I have heard from a number of entities who are very concerned about this, particularly the New Hampshire Bar Association and many of its members, who I agree with, that the distribution of their bills amounts to a breach of the attorney/client privilege. So what I'm trying to do in this amendment is to condense what has to be disclosed to anything that is generated from lobbying, directly or indirectly for lobbying for...and those itemized statements have to be provided in full. So I would ask that you pass this amendment. This will clear up something that I feel is an oversight and perhaps didn't get addressed the last time around. Thank you.

**Floor amendment adopted.**



**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**Senator Foster (Rule #42) on HB 1761.**

**HB 626-FN-L**, relative to the right-to-know law. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 4-2. Senator Roberge for the committee.

**Public and Municipal Affairs**

**April 26, 2006**

**2006-2073s**

**01/09**

**Amendment to HB 626-FN-LOCAL**

Amend the bill by replacing all after the enacting clause with the following:

1 Statement of Purpose. The purpose of this act is to clarify how the right-to-know law applies to both governmental records kept in electronic form and electronic communications used to transact governmental business. The general court finds that this act fulfills this purpose in a manner that maintains openness in government, while being in accord with the varied types, sizes, and resources of New Hampshire's public bodies.

2 Chapter Heading Amended. Amend the chapter heading of RSA 91-A to read as follows:

**ACCESS TO [PUBLIC] GOVERNMENTAL RECORDS AND MEETINGS**

3 Definitions Added. RSA 91-A:1-a is repealed and reenacted to read as follows:

**91-A:1-a Definitions. In this chapter:**

I. "Advisory committee" means any committee, council, commission, or other like body whose primary purpose is to consider an issue or issues designated by the appointing authority so as to provide such authority with advice or recommendations concerning the formulation of any public policy or legislation that may be promoted, modified, or opposed by such authority.

II. "Governmental records" means any information created, accepted, or obtained by, or on behalf of, any public body in furtherance of its official function. The term "governmental records" shall also include the term "public records."

III. "Governmental proceedings" means the transaction of any functions affecting any or all citizens of the state by a public body.

IV. "Information" means knowledge, opinions, facts or data of any kind and in whatever physical form kept or maintained, including, but not limited to, written, aural, visual, electronic or other physical form.

V. "Public body" means any of the following:

(a) The general court including executive sessions of committees; and including any advisory committee established by the general court;

(b) The executive council and the governor with the executive council; including any advisory committee established by the governor by executive order or by the executive council;

(c) Any state agency or authority, including any board or commission thereof, the board of trustees of the university system of New Hampshire and any committee, advisory or otherwise, established by such entities;

(d) Any board, commission, agency or authority, of any county, town, municipal corporation, school district, school administrative unit, charter school, or other political subdivision, or any committee, subcommittee or subordinate body thereof, or advisory committee thereto.

VI. "Quorum" means the minimum number of members required to be present when making decisions on behalf of a public body required by law to act only as a group through joint authority. Unless expressly declared otherwise, one member more than ½ the membership of such a body shall constitute a quorum.

4 Meetings; Nonpublic Sessions; Minutes and Records; Exemptions. Amend RSA 91-A:2-5 to read as follows:

91-A:2 Meetings Open to Public.

I. For the purpose of this ~~[section]~~ **chapter**, a "meeting" ~~[shall mean]~~ **means** the convening of a quorum of the membership of a public body, as ~~[provided]~~ **defined** in RSA 91-A:1-a, ~~[to discuss or act]~~ **whether in person, by means of telephone or electronic communication, or in any other manner such that all participating members are able to communicate with each other contemporaneously, for the purpose of discussing or acting** upon a matter or matters over which the public body has supervision, control, jurisdiction or advisory power. **A chance, social, or other encounter not convened for the purpose of discussing or acting upon such matters shall not constitute a meeting if no decisions are made regarding such matters. However, if any such matters are discussed among a quorum of the body, the discussion shall be disclosed at the next meeting of the body.** "Meeting" shall **also** not include:

~~[(a) Any chance meeting or a social meeting neither planned nor intended for the purpose of discussing matters relating to official business and at which no decisions are made; however, no such chance or social meeting shall be used to circumvent the spirit of this chapter;~~

~~(b)]~~ **(a)** Strategy or negotiations with respect to collective bargaining;

~~[(c)]~~ **(b)** Consultation with legal counsel; ~~or~~

~~[(d)]~~ **(c)** A caucus consisting of elected members of a public body of the same political party who were elected on a partisan basis at a state general election or elected on a partisan basis by a town or city which has adopted a partisan ballot system pursuant to RSA 669:12 or RSA 44:2[-];

**(d) Circulation of draft documents which, when finalized, are intended only to formalize decisions formerly made in a meeting; provided, that nothing in this subparagraph shall be construed to alter or affect the application of any other section of RSA 91-A to such documents or related communications; or**

**(e) Chance encounters between or among members of the general court who are attending a fundraising event for charitable purposes.**

II. ~~[All public proceedings shall be open to the public, and all persons shall be permitted to attend any meetings of those bodies or agencies.]~~ **Subject to the provisions of RSA 91-A:3, all meetings, whether held in person, by means of telephone or electronic communication, or in any other manner, shall be open to the public.** Except for town meetings, school district meetings and elections, no vote while in open session may be taken by secret ballot. Any person shall be permitted to use recording devices, including, but not limited to, tape recorders, cameras and videotape equipment, at such meetings. Minutes of all such meetings, including names of members, persons appearing before the **public** bodies ~~[or agencies]~~, and a brief description of the subject matter

discussed and final decisions, shall be promptly recorded and open to public inspection within 144 hours of the ~~[public]~~ meeting, except as provided in RSA 91-A:6, and shall be treated as permanent records of any **public** body ~~[or agency]~~, or any subordinate body thereof, without exception. Except in an emergency or when there is a meeting of a legislative committee, a notice of the time and place of each such meeting, including a nonpublic session, shall be posted in 2 appropriate places, ***one of which may be the public body's Internet website, if such exists***, or shall be printed in a newspaper of general circulation in the city or town at least 24 hours, excluding Sundays and legal holidays, prior to such meetings. An emergency shall mean a situation where immediate undelayed action is deemed to be imperative by the chairman or presiding officer of the **public** body ~~[or agency]~~ who shall ***post a notice of the time and place of such meeting, as soon as practicable, and shall*** employ whatever ***further*** means are ***reasonably*** available to inform the public that a meeting is to be held. The minutes of the meeting shall clearly spell out the need for the emergency meeting. When a meeting of a legislative committee is held, publication made pursuant to the rules of the house of representatives or the senate, whichever rules are appropriate, shall be sufficient notice. If the charter of any city or guidelines or rules of order of any **public** body ~~[or agency described in RSA 91-A:1-a]~~ require a broader public access to official meetings and records than herein described, such charter provisions or guidelines or rules of order shall take precedence over the requirements of this chapter.

#### 91-A:3 Nonpublic Sessions.

I.(a) **Public** bodies ~~[or agencies]~~ shall not meet in nonpublic session, except for one of the purposes set out in paragraph II. No session at which evidence, information or testimony in any form is received shall be closed to the public, except as provided in paragraph II. No **public** body ~~[or agency]~~ may enter nonpublic session, except pursuant to a motion properly made and seconded.

(b) Any motion to enter nonpublic session shall state on its face the specific exemption under paragraph II which is relied upon as foundation for the nonpublic session. The vote on any such motion shall be by roll call, and shall require the affirmative vote of the majority of members present.

(c) All discussions held and decisions made during nonpublic session shall be confined to the matters set out in the motion.

II. Only the following matters shall be considered or acted upon in nonpublic session:

(a) The dismissal, promotion or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted.

(b) The hiring of any person as a public employee.

(c) Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the **public** body ~~[or agency]~~ itself, unless such person requests an open meeting. This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on inability to pay or poverty of the applicant.

(d) Consideration of the acquisition, sale or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.

(e) Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the **public** body [~~or agency~~] or any subdivision thereof, or against any member thereof because of his membership in such **public** body [~~or agency~~], until the claim or litigation has been fully adjudicated or otherwise settled. Any application filed for tax abatement, pursuant to law, with any body or board shall not constitute a threatened or filed litigation against any **public** body[, ~~board, or agency~~] for the purposes of this subparagraph.

(f) Consideration of applications by the adult parole board under RSA 651-A.

(g) Consideration of security-related issues bearing on the immediate safety of security personnel or inmates at the county correctional facilities by county correctional superintendents or their designees.

(h) Consideration of applications by the business finance authority under RSA 162-A:7-10 and 162-A:13, where consideration of an application in public session would cause harm to the applicant or would inhibit full discussion of the application.

(i) Consideration of matters relating to the preparation for and the carrying out of emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.

(j) Consideration of confidential, commercial, or financial information that is exempt from public disclosure under RSA 91-A:5, IV in an adjudicative proceeding pursuant to RSA 541 or RSA 541-A.

III. Minutes of [~~proceedings~~] **meetings** in nonpublic session shall be kept and the record of all actions shall be promptly made available for public inspection, except as provided in this section. Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72 hours of the meeting, unless, by recorded vote of 2/3 of the members present, it is determined that divulgence of the information likely would affect adversely the reputation of any person other than a member of the **public** body [~~or agency~~] itself, or render the proposed action ineffective, or pertain to terrorism, more specifically, to matters relating to the preparation for and the carrying out of all emergency functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life. This shall include training to carry out such functions. In the event of such circumstances, information may be withheld until, in the opinion of a majority of members, the aforesaid circumstances no longer apply.

91-A:4 Minutes and Records Available for Public Inspection.

I. Every citizen during the regular or business hours of all [~~such~~] **public** bodies [~~or agencies~~], and on the regular business premises of such **public** bodies [~~or agencies~~], has the right to inspect all [~~public~~] **governmental** records **in the possession, custody, or control of such public bodies**, including minutes of meetings of the **public** bodies [~~or agencies~~], and to **copy and** make memoranda[;] **or** abstracts[; ~~and photographic or photostatic copies~~] of the records or minutes so inspected, except as otherwise prohibited by statute or RSA 91-A:5. ***In this section, "to copy" means the reproduction of original records by whatever method including, but not limited to, photography, photostatic copying, printing, or electronic or tape recording.***

I-a. Records of any payment made to an employee of any public body [~~or agency listed in RSA 91-A:1-a, 1(a)-(d)~~], or to the employee's agent

or designee, upon the resignation, discharge, or retirement of the employee, paid in addition to regular salary and accrued vacation, sick, or other leave, shall immediately be made available without alteration for public inspection. All records of payments shall be available for public inspection notwithstanding that the matter may have been considered or acted upon in nonpublic session pursuant to RSA 91-A:3.

II. After the completion of a meeting of such **public** bodies [~~or agencies~~], every citizen, during the regular or business hours of all such **public** bodies [~~or agencies~~], and on the regular business premises of such **public** bodies [~~or agencies~~], has the right to inspect all notes, materials, tapes or other sources used for compiling the minutes of such meetings, and to make memoranda, abstracts, [~~photographic or photostatic copies, or tape record~~] **or to copy** such notes, materials, tapes or sources inspected, except as otherwise prohibited by statute or RSA 91-A:5.

III. Each **public** body [~~or agency~~] shall keep and maintain all [~~public~~] **governmental** records in its custody at its regular office or place of business in an accessible place and, if there is no such office or place of business, the [~~public~~] **governmental** records pertaining to such **public** body [~~or agency~~] shall be kept in an office of the political subdivision in which such **public** body [~~or agency~~] is located or, in the case of a state agency, in an office designated by the secretary of state.

*III-a. Governmental records created or maintained in electronic form shall remain accessible for the same retention or archival periods as their paper counterparts. Methods that may be used to accomplish this requirement include, but are not limited to, copying to microfilm or paper or to durable electronic media using standard or common file formats.*

*III-b. A governmental record in electronic form shall no longer be subject to disclosure pursuant to this section after it has been initially and legally deleted in the normal course of business or after the expiration of any statutorily required retention period.*

IV. Each **public** body [~~or agency~~] shall, upon request for any [~~public~~] **governmental** record reasonably described, make available for inspection and copying any such [~~public~~] **governmental** record within its files when such records are immediately available for such release. If a **public** body [~~or agency~~] is unable to make a [~~public~~] **governmental** record available for immediate inspection and copying, it shall, within 5 business days of request, make such record available, deny the request in writing with reasons, or furnish written acknowledgment of the receipt of the request and a statement of the time reasonably necessary to determine whether the request shall be granted or denied. If a **computer**, photocopying machine or other device maintained for use by a **public** body [~~or agency~~] is used by the **public** body [~~or agency~~] to copy the [~~public~~] **governmental** record [~~or document~~] requested, the person requesting the copy may be charged the actual cost of providing the copy, which cost may be collected by the **public** body [~~or agency~~]. Nothing in this section shall exempt any person from paying fees otherwise established by law for obtaining copies of [~~public~~] **governmental** records [~~or documents~~], but if such fee is established for the copy, no additional costs or fees shall be charged.

V. In the same manner as set forth in RSA 91-A:4, IV, any **public** body [~~or agency~~] which maintains [~~its~~] **governmental** records in [~~a computer storage system~~] **electronic form** may, in lieu of providing original [~~documents~~] **records**, [~~provide a printout of any record reasonably described and which the agency has the capacity to produce~~] **copy gov-**

*ernmental records requested to electronic media using standard or common file formats* in a manner that does not reveal information which is confidential under this chapter or any other law. ***If copying to electronic media is not reasonably practicable, or if the person or entity requesting access requests a different method, the public body may provide a printout of governmental records requested, or may use any other means reasonably calculated to comply with the request in light of the purpose of this chapter as expressed in RSA 91-A:1.*** Access to work papers, personnel data and other confidential information under RSA 91-A:5, IV shall not be provided.

VI. Every agreement to settle a lawsuit against a governmental unit, threatened lawsuit, or other claim, entered into by any political subdivision or its insurer, shall be kept on file at the municipal clerk's office and made available for public inspection for a period of no less than 10 years from the date of settlement.

***VII. Nothing in this chapter shall be construed to require a public body to compile, cross-reference or assemble information into a form in which it is not already kept or reported by that body.***

91-A:5 Exemptions. The following **governmental** records are exempted from the provisions of this chapter:

I. Records of grand and petit juries.

II. Records of parole and pardon boards.

III. Personal school records of pupils.

IV. Records pertaining to internal personnel practices; confidential, commercial, or financial information; test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examinations; and personnel, medical, welfare, library user, videotape sale or rental, and other files whose disclosure would constitute invasion of privacy. Without otherwise compromising the confidentiality of the files, nothing in this paragraph shall prohibit a **public** body ~~[or agency]~~ from releasing information relative to health or safety from investigative files on a limited basis to persons whose health or safety may be affected.

V. Teacher certification records ~~[, both hard copies and computer files,]~~ in the department of education, provided that the department shall make available teacher certification status information.

VI. Records pertaining to matters relating to the preparation for and the carrying out of all emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.

VII. Unique pupil identification information collected in accordance with RSA 193-E:5.

VIII. Any notes or other materials made for personal use that do not have an official purpose, including, ***but not limited to***, notes and materials made prior to, during, or after a ~~[public]~~ **governmental** proceeding.

IX. Preliminary drafts, notes, and memoranda and other documents not in their final form and not disclosed, circulated, or available to a quorum or a majority of ~~[those entities defined in RSA 91-A:1-a]~~ **the members of a public body**.

5 Remedies. Amend RSA 91-A:8 to read as follows:

91-A:8 Remedies.

I. If any **public** body ~~[or agency]~~ or employee or member thereof, in violation of the provisions of this chapter, refuses to provide a ~~[public]~~

**governmental** record or refuses access to a [~~public~~] **governmental** proceeding to a person who reasonably requests the same, such **public** body[, ~~agency~~], or person shall be liable for reasonable attorney's fees and costs incurred in a lawsuit under this chapter provided that the court finds that such lawsuit was necessary in order to make the information available or the proceeding open to the public. Fees shall not be awarded unless the court finds that the **public** body[, ~~agency~~] or person knew or should have known that the conduct engaged in was a violation of this chapter or where the parties, by agreement, provide that no such fees shall be paid. In any case where fees are awarded under this chapter, upon a finding that an officer, employee, or other official of a public body [~~or agency~~] has acted in bad faith in refusing to allow access to a [~~public~~] **governmental** proceeding or to provide a [~~public~~] **governmental** record, the court may award such fees personally against such officer, employee, or other official.

I-a. The court may award attorneys' fees to a [~~board, agency~~] **public body** or employee or member thereof, for having to defend against a person's lawsuit under the provisions of this chapter, when the court makes an affirmative finding that the lawsuit is in bad faith, frivolous, unjust, vexatious, wanton, or oppressive.

II. The court may invalidate an action of a public body [~~or agency~~] taken at a meeting held in violation of the provisions of this chapter, if the circumstances justify such invalidation.

III. In addition to any other relief awarded pursuant to this chapter, the court may issue an order to enjoin future violations of this chapter.

6 Reference Change. Amend RSA 42:1-a, II (a) and (b) to read as follows:

(a) A public body properly voted to withhold that information from the public by a vote of 2/3, as required by RSA 91-A:3, III, and if divulgence of such information would constitute an invasion of privacy, or would adversely affect the reputation of some person other than a member of the public body [~~or agency~~], or would render proposed municipal action ineffective; or

(b) The officer knew or reasonably should have known that the information was exempt from disclosure pursuant to RSA 91-A:5, and that its divulgence would constitute an invasion of privacy, or would adversely affect the reputation of some person other than a member of the public body [~~or agency~~], or would render proposed municipal action ineffective.

7 New Section; Communications Outside Meetings. Amend RSA 91-A by inserting after section 2 the following new section:

91-A:2-a Communications Outside Meetings.

I. Any communications outside a meeting, in whatever form, among a quorum of the membership of a public body which bear upon matters over which the body has supervision, control, jurisdiction, or advisory power shall be disclosed at the next meeting of the body before any decision may be made, including a decision not to act. If such communications are in writing, copies or printouts shall be made a part of the public record. Communications among less than a quorum of members need not be disclosed. Communications described in RSA 91-A:2, I(a)-(d) are not subject to the disclosure requirements of this paragraph.

II. Communications outside a meeting, including but not limited to sequential communications among the members of a public body, shall not be used to circumvent the spirit of this chapter.

8 Board of Tax and Land Appeals; Board Meetings; Hearing Procedures. Amend RSA 71-B:7 to read as follows:

71-B:7 **Board Meetings**; Hearing Procedure.

***I. The board shall conduct all hearings and vote on final proposed rules and the adoption of rules in meetings held pursuant to RSA 91-A. Adoption of orders, rulings on motions, internal administrative actions, deliberations and other communications involving a quorum of the board shall be exempt from the meeting, notice, and disclosure provisions of RSA 91-A. Work papers, including, but not limited to, all preliminary drafts, notes, memoranda and other documents not in their final form, created or used by the board, are exempted from the provisions of RSA 91-A. Decisions and orders in adjudicatory proceedings shall be publicly available, but only after they have been reduced to writing, signed by a quorum of the board, and served upon the parties.***

***II.*** Whenever the board shall hold hearings, it shall not be bound by the strict rules of evidence adhered to in the superior courts in this state. The board shall introduce into evidence and may take into consideration in determining any question any information obtained through its own investigation, including information obtained by persons employed under RSA 71-B:14. ~~[In addition to the provisions of RSA 91-A,]~~ The board shall tape record the proceedings of any taxation hearing before it and shall make such tape recording available to the public for inspection and recording from the date of the hearing to a date which is 15 working days after the board has made a final decision on the matter which is the subject of the hearing, or, if an appeal is made from such decision, the date upon which the matter has been finally adjudicated, whichever date is later.

9 New Section; Public Utilities Commission. Amend RSA 363 by inserting after section 17-b the following new section:

363:17-c Meetings of the Commission. The commission shall conduct all hearings and vote on final proposed rules and the adoption of rules in meetings held pursuant to RSA 91-A. Adoption of orders, rulings on motions, internal administrative actions, deliberations and other communications involving a quorum of the commission shall be exempt from the meeting, notice, and disclosure provisions of RSA 91-A; provided, however, that all orders and rulings on motions in adjudicative proceedings shall be disclosed in public meetings or hearings of the commission held pursuant to RSA 91-A.

10 New Paragraph; Public Utilities; Rates and Charges. Amend RSA 378:43 by inserting after paragraph III the following new paragraph:

***IV.*** Work papers, including, but not limited to, all preliminary drafts, notes, memoranda, and other documents not in their final form, created or used by the commission are exempt from the provisions of RSA 91-A.

11 Site Evaluation Committee. Amend RSA 162-H:10, II to read as follows:

***II.*** Except for informational hearings, subsequent hearings shall be in the nature of adversary proceedings and may be held in the county or one of the counties in which the proposed facility is to be located or in Concord, New Hampshire, as determined by the site evaluation committee. The committee shall give adequate public notice of the time and place of each subsequent session. ***Deliberations and other communications involving a quorum of the site evaluation committee and, if a bulk power supply facility application, the commission, shall be exempt from the meeting, notice, and disclosure provisions of RSA 91-A; provided, however, that all orders and rulings on motions in adjudicative proceedings shall be disclosed in public***



*meetings or hearings of the site evaluation committee or commission, as applicable, held pursuant to RSA 91-A or through publication of a written order setting forth findings of fact and conclusions of law. Work papers, including, but not limited to, all preliminary drafts, notes, memoranda, and other documents not in their final form, created or used by the site evaluation committee or the commission are exempt from the provisions of RSA 91-A.*

12 Nuclear Decommissioning Finance Committee. Amend RSA 162-F:21, I to read as follows:

I. Each committee shall hold at least one public hearing to receive information on funding requirements for each fund. The committee shall have the authority to subpoena witnesses and administer oaths and to compel by subpoena duces tecum the production of any accounts, books, contracts, records, documents, memoranda, and papers in order to determine the amount needed for the fund. *Deliberations and other communications involving a quorum of the nuclear decommissioning finance committee shall be exempt from the meeting, notice, and disclosure provisions of RSA 91-A, provided; however, that all orders and rulings on motions in adjudicative proceedings shall be disclosed in public meetings or hearings of the nuclear decommissioning finance committee held pursuant to RSA 91-A or through publication of a written order pursuant to RSA 162-F:21, III and IV. Work papers, including, but not limited to, all preliminary drafts, notes, memoranda, and other documents not in their final form, created or used by the nuclear decommissioning finance committee are exempt from the provisions of RSA 91-A.*

13 Effective Date. This act shall take effect July 1, 2006.

**2006-2073s**

### AMENDED ANALYSIS

This bill:

I. Clarifies the manner in which the right-to-know law applies to both governmental records kept in electronic form and electronic communication used to transact governmental business.

II. Clarifies certain administrative procedures of the board of tax and land appeals and the public utilities commission with respect to RSA 91-A.

III. Changes the definition of quorum for the purposes of the right-to-know law.

IV. Excludes chance encounters between or among members of the general court who are attending a fundraising event for charitable purposes.

### MOTION TO TABLE

Senator Roberge moved to have HB 626-FN-L laid on the table.

**Adopted.**

### LAID ON THE TABLE

**HB 626-FN-L**, relative to the right-to-know law.

**HB 1305-L**, authorizing cities to adopt certain bylaws and ordinances relative to businesses obtaining city permits. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 6-0. Senator Martel for the committee.

**Public and Municipal Affairs**  
**April 19, 2006**  
**2006-1925s**  
**09/01**

**Amendment to HB 1305-LOCAL**

Amend the title of the bill by replacing it with the following:

AN ACT authorizing municipalities to adopt regulations relative to businesses obtaining municipal permits.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 New Section; Town Regulations; Businesses Obtaining Municipal Permits. Amend RSA 41 by inserting after section 11-b the following new section:

41:11-c Regulations; Businesses Obtaining Municipal Permits. The selectmen may establish regulations relative to businesses obtaining municipal permits. Any person who violates a regulation established under this section shall be guilty of a violation.

**2006-1925s**

**AMENDED ANALYSIS**

The bill authorizes municipalities to adopt regulations relative to businesses obtaining municipal permits.

SENATOR MARTEL: Thank you very much, Mr. Chairman. Oops. Bear with me for a second. I've got it right here. Thank you, Mr. President. I move House Bill 1305 ought to pass with amendment. This legislation will allow cities to enact ordinances to give them more local control over the businesses to operate in a community. Currently, cities do not have much control over who operates a business within their community and there are no penalties for noncompliance. This enabling legislation gives cities the right to establish rules and procedures for the issuance of permits to businesses. The committee amendment would give the selectmen of towns the same authority. The Public and Municipal Affairs Committee asks for your support for the motion of ought to pass with amendment, and I thank you, Mr. President.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1366**, relative to a planning board's authority to require public access to open space as a condition of subdivision approval. Public and Municipal Affairs Committee. Inexpedient to legislate, Vote 5-0. Senator Roberge for the committee.

SENATOR ROBERGE: Thank you, Mr. President. I move House Bill 1366 inexpedient to legislate. This legislation would have prohibited planning boards from requiring public access to private open space land as a condition of subdivision approval. The committee feels that this legislation would discourage negotiations between planning boards and developers. Neither the New Hampshire Association of Regional Planning Commissioners or the New Hampshire Planners Association supported House Bill 1366 because it would take away the discretionary authority of planning

boards and is not in the best interest of New Hampshire communities. The Public and Municipal Affairs Committee asks for your support of inexpedient to legislate.

**Committee report of inexpedient to legislate is adopted.**

**HB 1436-L**, authorizing municipal and county biennial budgets for a 24-month period. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 5-0. Senator Barnes for the committee.

**Sen. Barnes, Dist. 17**

**April 26, 2006**

**2006-2057s**

**08/10**

**Amendment to HB 1436-LOCAL**

Amend the title of the bill by replacing it with the following:

**AN ACT** authorizing municipal and county biennial budgets for a 24-month period and authorizing a fee of up to \$500 for games of chance licenses.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 Games of Chance; Fees. Amend RSA 287-D:5 to read as follows:

I. An applicant for a license under this chapter shall apply to the chief of police, and upon payment of [a fee of \$25] ***the fees established by this paragraph***, and if the applicant meets all other requirements of this chapter, a license shall be issued. [~~The fee shall be paid to the city or town treasurer for the use of the city or town.~~] ***As determined by the governing body, a fee of up to \$500 shall be paid by the applicant for a license to the city or town treasurer for the use of the city or town. In addition, a fee of up to \$500, as determined by the governing body, for each day a game of chance will be operated under the license, shall be paid to the city or town treasurer for the use of the city or town, by the person or persons other than the charitable organization itself, who lease, sell, or otherwise provide the facility, game of chance paraphernalia, or equipment to the charitable organization for use during the games of chance to be licensed.*** Only one license shall be issued to each applicant per year to operate games of chance for 10 days, which 10 days need not be consecutive.

**2006-2057s**

**AMENDED ANALYSIS**

This bill authorizes municipal and county biennial budgets for one distinct 24-month fiscal year or 2 distinct 12-month fiscal years.

This bill also authorizes a fee of up to \$500 for games of chance licenses.

**SENATOR BARNES:** Thank you, Mr. President. I move House Bill 1436 ought to pass with an amendment. Cities currently operate on one-year budgets. This enabling legislation, and I underlined "enabling", would allow cities to operate on a two-year budget. This is similar to the budget process at the state level. The two-year budget will help cities from an administrative and economic standpoint by giving them more flexibility. The amendment authorizes a fee of up to \$500 for games of chance licenses. The current fee is only \$25. Giving a governing body the chance to raise this fee will increase the amount of money going to cities and towns. The Public and Municipal Affairs Committee unanimously asks for your support on the motion of ought to pass with amendment, and I thank you.

SENATOR BRAGDON: Senator Barnes. Senator, you referred many times to this applying only to cities. But doesn't this apply to towns and school districts as well to have a biennial budget?

SENATOR BARNES: The way it came through committee, it was strictly under cities. That's a good question. Towns and school districts were not discussed.

SENATOR BRAGDON: Thank you.

SENATOR BARNES: If you would like an amendment to that, I'm sure we could...

SENATOR BRAGDON: No, I think the wording seems to imply that, but he didn't mention it.

SENATOR MARTEL: Senator Barnes?

SENATOR BARNES: Senator Martel, always a pleasure.

SENATOR MARTEL: Thank you. Same here. As you had just stated in the...in your little blurb that you just read, the portion of which the bill stated that increase in fees up to \$500 could be implied by cities and towns in the state. Is that still part of this bill or was this bill just pertaining to the twenty-four-month biennial budget?

SENATOR BARNES: This was an added amendment to take care of the situation where, if somebody has ten events that costs them \$2.50 per permit, and some of us didn't think that \$2.50 was an adequate number to charge someone when they're raising large fund raisers. \$2.50 didn't seem to be quite...fit the shoe quite right.

SENATOR MARTEL: Thank you very much, Senator Barnes.

SENATOR BARNES: You're welcome.

**Recess.**

**Out of recess.**

SENATOR LARSEN: I simply wanted to point out that we have some questions with 1436 of the amendment to it. To its effect on those who are operating charitable games and how it would in fact result in revenue changes to the charities that these are sometimes begun for. There is, I understand, a commission that is studying the games of chance and how we address them, but I think it's too early for us to establish this fee, and it could in fact be a night when there wasn't revenue, but they had to charge...they were charged \$500 for an event that they didn't...take home was not from the char...to the charity. There was not the \$500 amount.

SENATOR BARNES: Thank you, Mr. President. Senator Larsen and others concerned about this, I understand Senator Martel is about to get up and ask us to kill that amendment. So I don't think you'll have a problem. I think the amendment's going to disappear, depending on the vote of this body, after Senator Martel makes his motion.

SENATOR EATON: Thank you. I rise in opposition to the amendment and urge the body to vote that down. This same amendment authorizes cities and towns to charge a license fee of up to \$500 a day for charitable organizations...for ten...they can do up to ten days per calendar year. But, if they don't have a facility, it also authorizes \$5,000...\$500 a day toward the facility that provides the games...rooms and halls for the

games of chance. So eventually it is going to come out of the charity's pocket. House Bill 1744 that we passed last week gives extra powers to the power...Pari-Mutuel Commission to look at fees, and I think that we ought to let that work its way through.

SENATOR GREEN: Thank you, Mr. President. I normally would stand up here and say to all of you that this is a great idea that would give extra money to cities and towns, but let me just tell you. We will create chaos if we do this. Bingo's involved and they don't get that much money on the end as far as the charities concerned. The other issue is that we're going to have different towns doing different things. So you're going to have the people who run these things figure out which city or town has got the best deal before they actually set up the games. The bottom line here is, as far as I'm concerned is, this is the kind of thing that we should be seriously looking at, but we should be looking at this as a statewide policy. And we should be charging fees, and we should not be letting them run these things without oversight and regulation, and that's what's going on now, and that behooves us, as Senators, to get off the stick and get this thing going, because there's a lot of money being handed around out there, and it's all in cash, and nobody really knows what's going on. And we're sitting here twiddling our thumbs. Some people don't want gambling, some people want gambling. The reality is we've got gambling. It's going on all around us and we're all closing our eyes to it. So there's two things going on. Number one, gambling's going on, and we're not recognizing it or willing to deal with it. And number two, if we agree to deal with it, based on what its status is, we will in fact be able to regulate that and generate some revenue. I would hope when we do the revenue, if I'm here, I would argue for sharing that revenue with the cities and towns, but that's not the issue here. The issue is we're trying to make something happen here, and it's going to make a mess out of things. It's a good idea, but I think that we've got to have some real attempt to get this thing organized as a statewide policy. Thank you.

### PARLIAMENTARY INQUIRY

SENATOR GATSAS (In the Chair): We're in the voting mode, Senator. Is it a parliamentary question? Go ahead.

SENATOR BRAGDON: Yes. Are we voting on the amendment or the bill?

SENATOR GATSAS (In the Chair): We're voting on the amendment.

SENATOR BRAGDON: Thank you very much.

**The question is on the adoption of the committee amendment.**

**A roll call was requested by Senator Larsen.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Boyce, Clegg, Gatsas, Barnes.**

**The following Senators voted No: Gallus, Johnson, Kenney, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Larsen, Martel, Letourneau, Estabrook, Morse, Hassan, Fuller Clark.**

**Yeas: 4 - Nays: 19**

**Amendment failed.**

**The question is on the motion of ought to pass.**

**Adopted.**

**Ordered to third reading.**

**HB 1508**, relative to acceptance of applications by planning boards. Public and Municipal Affairs Committee. Ought to pass with amendment, Vote 6-0. Senator Martel for the committee.

Sen. Clegg, Dist. 14

**April 18, 2006**

**2006-1878s**

**03/10**

### **Amendment to HB 1508**

Amend the bill by replacing section 1 with the following:

1 Building Permits to be Withheld in Certain Cases; Plat or Application Subject of Notice. Amend RSA 676:12, VI to read as follows:

VI. The provisions of paragraph I shall not apply to any plat or application which has been ~~formally accepted~~ **the subject of notice** by the planning board pursuant to RSA 676:4, ~~I(b)~~ **I(d)** prior to the first legal notice of a proposed change in a building code or zoning ordinance or any amendment thereto. No proposed subdivision or site plan review or zoning ordinance or amendment thereto shall affect a plat or application ~~formally accepted~~ **which has been the subject of notice** by the planning board pursuant to RSA 676:4, ~~I(b)~~ **I(d)** so long as said plat or application was ~~accepted~~ **the subject of notice** prior to the first legal notice of said change or amendment. **The provisions of this paragraph shall apply to proposals submitted to a planning board for preliminary review pursuant to RSA 676:4, II, provided that a formal application is filed with the planning board within 12 months of the end of the preliminary review process.**

SENATOR MARTEL: Thank you very much, Mr. President. I move House Bill 1508 ought to pass with amendment. This legislation will allow applications submitted to planning boards to be vested at the point when a planning board notifies the abutters regarding a specific application. At this point, the application will not be subject to proposed changes in building codes or zoning ordinances. This legislation has become necessary because some applicants have found that planning boards delay formally accepting an application so that zoning...new zoning ordinances can be enacted. The amendment clarifies that this provision will apply to proposals submitted to a planning board for preliminary review provided that a formal application is filed with the planning board within twelve months of the preliminary review process. House Bill 1508 is about fairness and will encourage better dialogue between applicants and municipalities. The Public and Municipal Affairs Committee asks for your support on the motion of ought to pass with amendment, and I thank you very much, Mr. President.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1582**, prohibiting New Hampshire from participating in a national identification card system. Public and Municipal Affairs Committee. Ought to pass, Vote 6-0. Senator Roberge for the committee.

SENATOR ROBERGE: Thank you, Mr. President. I move House Bill 1582 ought to pass. This legislation will prohibit New Hampshire from participating in the National Identification Card System. The Federal Real ID Act was included as a provision on a large spending bill and never

had its own hearing or debate in Congress. The Act basically creates a national ID card by requiring all drivers' licenses to meet federal standards. This program is frightening as it will require states to share motor vehicle information on a data base which will make it easier for hackers to commit identity theft. Passing this legislation will cause the state to lose a \$3 million grant it was given to pilot the Real ID Program. But, in reality, implementing this program will cost far more than that. The Act will not provide citizens with the security or protection it is claiming to do. It will only do...it will do little to stop terrorism. It is important that New Hampshire sends a clear message that it will not be coerced or bribed into taking part in this program. If New Hampshire leads the way in a fight against Real ID, other states will follow. The Public and Municipal Affairs Committee asks for your support on a motion of ought to pass.

Senator Barnes offered a floor amendment.

Sen. Barnes, Dist. 17

**May 3, 2006**

**2006-2177s**

**05/04**

### **Floor Amendment to HB 1582**

Amend the title of the bill by replacing it with the following:

**AN ACT** establishing a commission to study the REAL ID Act of 2005, Public Law 109-13.

Amend the bill by replacing all after the enacting clause with the following:

1 Commission Established. There is established a commission to study the REAL ID Act of 2005, Public Law 109-13.

2 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) Two members of the senate, appointed by the president of the senate.

(b) Two members of the house of representatives, appointed by the speaker of the house of representatives.

(c) The commissioner of safety, or designee.

(d) The director of the division of emergency services, communications and management, department of safety, or designee.

(e) The director of motor vehicles, department of safety, or designee.

(f) The governor, or designee.

(g) The state treasurer, or designee.

(h) The bank commissioner, or designee.

(i) The secretary of state, or designee.

(j) The attorney general, or designee.

(k) A member of the New Hampshire Association of Chiefs of Police, appointed by that organization.

(l) A member of the New Hampshire Police Association, appointed by that organization.

(m) A member of the New Hampshire State Troopers Association, appointed by that organization.

(n) A member of the Professional Firefighters of New Hampshire - International Association of Firefighters, appointed by that organization.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall examine the state implications of adopting the REAL ID Act of 2005, including the requirements of the federal legislation, compliance deadlines, and federal funding opportunities. The commission shall assess the cost and benefit of New Hampshire's participation or nonparticipation in the national identification card system established by the Act.

4 Chairperson; Quorum. The members of the study commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Nine members of the commission shall constitute a quorum.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2006.

6 Effective Date. This act shall take effect upon its passage.

## **2006-2177s**

### **AMENDED ANALYSIS**

This bill establishes a commission to study the REAL ID Act of 2005.

SENATOR BARNES: Thank you, Mr. President. I have an amendment 2177s.

SENATOR GATSAS (In the Chair): Floor amendment 2177s has been proposed. You may speak to your amendment as it's being passed out.

SENATOR BARNES: Thank you, Mr. President. I have brought forward a floor amendment to 1582. What it is, it establishes a commission to study "REAL ID Act of 2005, Public law 109-13". It amends the bill by replacing all of it after the enacting clause with the following: Commission is Established. There is established a commission to study the REAL ID Act of 2005, Public Law 109-13. The Membership and Compensation is: The members of the commission shall be as follows: Two members of the Senate, appointed by the President of the Senate. Two members of the House of Representatives, appointed by the Speaker of the House of Representatives. The Commissioner of safety, or designee. The Director of the Division of Emergency Services, Communications and Management, Department of Safety, or designee. The Director of Motor Vehicles, Department of Safety, or designee. The Governor, or designee. The State Treasurer, or designee. The Bank Commissioner, or designee. The Secretary of State, or designee. The Attorney General, or designee. A member of the New Hampshire Association of Chiefs of Police, appointed by that organization. A member of the New Hampshire Police Association, appointed by that organization. A member of the New Hampshire State Troopers Association, appointed by that organization. A member of the Professional Firefighters of New Hampshire - International Association of Firefighters, appointed by that organization. Legislative members...it's the usual about the compensation. May I now speak?

SENATOR GATSAS (In the Chair): Continue speaking, Senator.

SENATOR BARNES: Thank you. The reason I brought this forward is because I have great concerns on both sides of the issue and those of you who know me know that I usually make up my mind pretty firm, but



this one has been a real problem for me. In committee, we had a lot of testimony. You heard how the bill came out of committee. We had a lot of testimony in favor of that. It had very little testimony against it. Well, I'm going to go back and I'm going to say to you, we are at war. Now we're sitting here in this nice room, we're looking out in the streets. We don't see the National Guard or Army guys with tanks driving by. The bombs aren't dropping here, the artillery shells, the mortar rounds aren't coming in here. But just this morning when Senator Morse got up. There's a family in Salem that knows we're at war. A week and a half ago, I went to a twenty-one-year-old's funeral up in Boscawen, up at the Veterans' Cemetery. A young man from Manchester. Twenty-one years old. That family knows we are at war. A gentleman from Hampstead passed away maybe four weeks ago. There was a funeral. That family in Hampstead knows. But a lot of folks that are raising cane about this, I know they've probably watched TV and they see blurbs, but maybe they're getting accustomed to seeing the blurbs on their TV sets saying that "Yeah, we're at war, and yeah, we lost another four fellows because they had a roadside bomb." So war time, the government, in my opinion, has to take certain steps. Now there's only a couple of people here. There's Bob...Senator Flanders was about five years old. Senator Johnson was about eighteen years old. Mal, John and Hank were in that age bracket, and I was ten years old in 1941 when World War II started. Our government, Franklin Delano Roosevelt, did something for today is a horrible thing. How could he have done that? You know what he did. He put Japanese Americans in camps, internment camps. You know why he did that? Because this country thought the Japanese were going to be attacking California. They thought the darn Germans were going to come on the east coast. We were at war. Men were being killed. They're being killed today. So I am sort of happy. I'm not sort of...I'm very happy, that our government is doing things that some people disagree with. Taking some of our rights away. I'll give some of my rights up. And I don't mind going to the airport, taking my shoes off so some bum isn't coming along and blowing up the airplane that I'm riding on. That inconvenience, I can live with it and ride with it. But I also know that our Congressional delegation voted for this REAL ID. Now they're smart fellows those fellows down there in Washington. They're getting about \$200,000 a year and we get about \$92, so they've got to be a lot smarter than we are. And they did not have a real public hearing on this bill. This bill was like we do sometimes, it was on another piece of legislation. All four of them voted for it. I got a hunch that probably the vast majority of the folks down there did. And I have faith in our government. When this war on terror is over, we will have those folks put us back into a peacetime situation. And I don't look at that government as the bad guy for doing what they're doing. That's the side I'm on, on that, and I don't like my rights being taken away. But darn it all, read the paper this morning. The family in Salem sure as heck knows we're at war. And I think everybody in this room should know it if they don't. I know we have Senator Kenney. Now there's a perfect example of someone in our midst who knows damn well there's a war going on. He was right there in the middle of it. I saw him behind a lot of sandbags there in a picture he sent over to me. So that's why I put this through. I think we need time. I do think that New Hampshire needs to be the first in the nation for the primary, but I don't see any reason why New Hampshire should be first in the nation for this program. I think it should stretch out a little bit. This commission will

give it time to look at things to see what's going on down in Washington and what other states are doing, and I think it's the right thing to do to cool our heels a little bit on this before we rush into it. And thank you, Mr. President. I will sit down.

**Recess.**

**Out of recess.**

SENATOR FOSTER: Senator Barnes, if you'll yield?

SENATOR BARNES: Yes, sir.

SENATOR FOSTER: The amendment, as I read it, replaces the bill. So the bill never goes into effect, and I had wondered whether you had considered having the bill go forward and the commission go forward? And, if the commission came back with a situation where they felt that, you know...it had been a wrong headed move, we could either reverse ourselves or I suppose you could even have the bill itself sunset, unless it's extended. Had you thought about that as opposed to not having it go...

SENATOR BARNES: I thought I already said no, Senator.

SENATOR FOSTER: Could you tell us why you said no?

SENATOR BARNES: Yeah, I said no because I don't think we need both of them. I think the commission will take care of the situation.

SENATOR FOSTER: Follow up? But, as the commission's acting, won't the REAL ID situation go forward and in a sense that the train had left the station?

SENATOR BARNES: I think we will have some time. I think it's 2008 when this thing kicks in. So we have some time. And this commission will have some time to do some work on it and make it right for the state of New Hampshire.

SENATOR FOSTER: Thank you.

SENATOR BURLING: Thank you, Mr. President. I rise with a profound sense of gratitude to my colleague, Senator Barnes, because he has reminded me once again of my dad and something my dad used to say to me, which was, "In time of war, Peter, is when you need to fight hardest for your own liberties." My dad was one of two young lawyers with the Enemy Alien Control Board who was sent to Tule Lake in 1942 to investigate for the Department of Justice, what the Army was doing to the Japanese Americans. And when he came back, he reported to his boss, the thirty-year-old lawyer, Edward Ennis, that the Army had sent a huge number of American citizens from their properties in California to concentration camps in Arizona and New Mexico, and as lawyers and members of the U.S. Government, they had some duty to respond. They did. And if you're interested in reading what their response was, it's in captured in a book called "Justice at War". It is an episode about which I am most proud of my father. He died in 1959 and I wish he were here today 'cause he'd like to see his son stand up for the same values. I rise in opposition to this amendment. I rise in opposition to the amendment because it takes us into the trap of REAL ID. We need to be true to our motto. We need to be true to our citizens. We need to be true to ourselves. And we need to understand that this REAL ID proposal is a bad idea on every level. First, as a legislative function, this is a concept included in the Katrina Relief Bill, not given appropriate legislative debate and

review, and it is, in addition to having kind of slipped through in that amazing way that Congressional mandates have a way of doing, it is an extraordinary unfunded mandate on each of the states, and because of the way it's been done, us first. Poor little New Hampshire, for \$3 million is going to get a crack at trying to deal with the biggest unfunded federal mandate since No Child Left Behind. Now why is that of concern to me? Well, you know, I turned on the radio this morning and I drove down here. And what do I hear on the radio, but a story about Ginny Beecher over at DMV getting instructions from Governor and Council that she has two weeks to fix the mess that's over there already at the Department of Motor Vehicles, where people can telephone in all week, and only 22 percent get a response? They can wait in line all day and they don't get a chance to get their licenses done right. Well, if we get drawn into REAL ID, tens of thousands of New Hampshire citizens are going to be denied their right to get licenses because of the administrative and bureaucratic nightmare that will descend upon this state, and which we will not have enough money in the next century of biennia to fix. This is a bill that will save New Hampshire from serious trouble. Do you know what they call the documents that we're all going to be expected under REAL ID to produce? These are the documents that are going to be necessary foundation documents so that we can get our licenses. They are called "Breeder Documents". Now any time somebody tells me that something's a "breeder something", I get nervous. It used to be "breeder reactors" when I was 22. And having a "breeder reactor" in your district was a bad thing. Now we're talking about "breeder documents". What are we talking about? We're talking about birth certificates. We're talking about leases. We're talking about bills of sale. We're talking about the kinds of things that we're all going to have to produce to show that we actually are who we say we are. This isn't the science fiction stuff. This isn't the weird outlandish stuff that some people have been talking about for the last two or three weeks. This is a pure fact. In order to get our licenses or to see our sons and daughters get their licenses, we're going to have to come up with these "breeder documents". And some poor soul over at the DMV, is going to have to figure out...let's say our child came from the District of Columbia. Is this District of Columbia birth certificate real? They're going to have to certify it. The person who is applying to get a driver's license is going to have to show up with the original document. Now this is, interestingly enough, in terms of our federal fifty state system, that's going to be a tough job. But imagine if you happen to be an American citizen who was born in say, Germany, on an Air Force base? You're going to have to have the original birth certificate from wherever you were in Germany. It is not going to be easy, and it is not well thought out. This is a statement we should make for our people. What's the phrase? "Just say no." The majority of you ought to know that better than I do. Mr. President, for once, we should be true to our roots. We should stand for the rights of our people and we should determine that we will not cross this line of REAL ID ahead of the rest of the gang. We will not take \$3 million in sucker money so that we can be drawn into a \$10 million per year expense. And we should wait, if we are ever to do this, to see if some other state wants to take on the "privilege", and I put apostrophes around that word...of going first on REAL ID. I think it's madness. And I hope that you will vote down this amendment and vote yes on the underlying bill. Thank you, Mr. President.

SENATOR BARNES: I have to kick these red herrings out of the way before I speak. Senator Burling, would you believe that everything you have said, I don't see it in this amendment? Everything you have said is what the other side of this issue has been saying? There's nothing in this...would you believe?

SENATOR GATSAS (In the Chair): Senator, can you stand behind your chair please?

SENATOR BARNES: Would you believe that it is in this amendment? I know you didn't have much time to read it, but you're a bright young fella, and I don't think you can show me anything in that amendment to back up anything you have just said, Senator. If you can, please do it.

SENATOR BURLING: Thank you, Mr. President. Let me respond. I haven't had much time to read this floor amendment, but even a cursory review shows that what it does is gut out the bill. That portion of the bill which will actually protect us from the REAL ID commitment is gone. In its place, we have a very traditional study committee. Now the study committee is going to act sometime on or before November 2006, but in the meantime, actually it's tomorrow, there's an agenda item to accept the \$3 million from the feds to get us going as the pilot initiates...isn't that fun, in the REAL ID Program. Anybody got a guess how many of us are going to be present tomorrow morning when the \$3 million shows up in front of Fiscal and is immediately taken? We have a chance and this is it, to stop and to act like the descendants of minutemen we all sometimes wish we really were. Now's the time to do it.

SENATOR BARNES: Sorry you couldn't answer my question, Senator.

SENATOR FULLER CLARK: I have a question of Senator Barnes, which is, I'd like to ask you why it was not...would not be possible to let the existing bill stand as it is so that we're making a statement that we're not ready for REAL ID right now, and that we don't think that New Hampshire should have to go first, and then add your proposal of a commission to that original bill, rather than replacing the language in the bill with this amendment so that we are not able to prevent the initiation of this program from going forward before we've even studied it?

SENATOR BARNES: Senator Fuller Clark, just a few minutes ago, I answered that same question from Senator Foster. He asked the same question a little bit different wording. I chose not to do it that way. I chose to put in a new commission instead of running the bill through too, so it'll have some time to look at this and work on it. That was my choice Senator.

SENATOR HASSAN: Thank you, Mr. President. I rise also in opposition to the amendment and in favor of the underlying bill. I rise as the very proud daughter of a World War II veteran who fought in the Battle of the Bulge. I rise as an extraordinarily proud sister-in-law of a member of the United States Air Force who was in the Pentagon on 9/11 and my family, along with thousands of others across this country, waited for hours to determine whether our loved one had survived the attack, and luckily for us, he had. So I feel very strongly about the fact that every one of us in this chamber, every one of us in that gallery, every citizen out on the street is a patriot. And just as Senator Kenney asked us yesterday, not to use veterans as political footballs, we cannot use patriotism as a political football in this chamber. We are all patriots. My father returned from World War II a changed person. He grew up in the segregated South. He came back from World War II having seen African American soldiers in battle,

and left the South because, as he told his mother, he learned that African Americans could shoot just as well as white Americans could and that we were all equal. My father also raised his three children to believe that freedom is the most important American value there is. He always used to say to us, that "there are three great resources available to human beings. Power, love and freedom. But then on occasion, you'd have to choose among the three and when you did, you chose freedom every time because without it, you can't enjoy power and you can't know the real passion of love." The REAL ID bill, I sat on the committee and I heard the testimony. The REAL ID bill is being proposed as a national system because I am told by Representatives from D.C. who were brought up here by the courtesy of Congressman Bradley, staff of the United States Congress who wrote the REAL ID bill. I was told that it was being proposed because most of the country doesn't have the fine systems and the excellent security that New Hampshire's drivers' license system already has. To quote, "If every state were New Hampshire, we wouldn't need REAL ID." So the notion that if we don't pass REAL ID terrorists are going to flock to New Hampshire, is incredibly flawed. Moreover, we know from the 9/11 Commission, that it wasn't the fraudulent IDs that were really the problem. We knew that these terrorists were here. We had agencies that weren't talking to each other, weren't sharing information. Today, we still have ships coming into our ports with containers that are never inspected. That is by far a greater threat than the failure of New Hampshire to tweak its driver license system just so much. There are some facts and some fiction about REAL ID. Fact, as the current bill is written, and as it is explained to us by those who drafted it, there is no huge national data base awaiting, which is one of the concerns. There is instead, just an expansion of shared data among states. We currently share data for commercial drivers' licenses, we currently share data for bad drivers. And they just want to now currently share data for every driver. The difference of course is that for most of us, driver licenses are an essential part of our daily lives, and we can't choose whether to be a commercial driver and we can't choose to engage in behavior that will have us reported as a bad driver. So there is a distinct difference there. There's also no current plan, I am told by the folks who drafted this, to insert a radio frequency ID chip onto our licenses. They just want to make the bar codes that some states already have uniform. Okay, that doesn't sound so horrible. The problem is that also in the bill, though, is unlimited discretion to the Secretary of Homeland Security to change those requirements. There is nothing in the bill that says we will not have our RFID chips in our licenses. There is nothing in the bill that says we won't have a national data system once we start sharing this data. We are giving unfettered discretion to the Secretary of Homeland Security to change the rules, to change the requirements any time he or she so chooses. I don't believe that unfettered discretion is wise. We live in a state where we hold our government officials accountable and we watch everything they do, and we try very hard to limit the government's power. That is the ethos of this state. That is what makes so many of us love this state so dearly. And we should expect nothing less from the federal government. If there is a need for some national data sharing for some uniformity in our drivers' licenses procedures, that's fine. Had this bill been heard in the full United States Senate, as Senator Sununu wished it had been, and not slapped onto a Katrina spending bill that nobody could vote against, these problems might have been addressed. We might have a bill that would limit the Secretary of Homeland Security's power appropriately. We might know exactly what we were

getting as we gave up a little bit of our privacy on balance for a promise of better national security. But that is not what REAL ID currently is, because it was snuck onto a bill in the middle of the night without hearing in a way that is directly offensive to everything we believe in this country about due process, about citizenship, about citizen participation. And it is an offensive step to every American who is a patriot and wants us to be secure and wants to win the war on terrorism. So, with all due respect to my good friend, Senator Barnes, the problem with this amendment is that the horse will be out of the barn. We will accept \$3 million...if this goes through, we will accept \$3 million tomorrow morning. We will be obligated to participate in the REAL ID system as it is currently written, with unfettered discretion by the Secretary of Homeland Security to change our licenses, to create a huge data base, to spy on Americans if he or she so chooses, while we are studying the issue. That is something we cannot afford to do; we should not afford to do. And, because we are all patriots in this chamber, and in this state, I hope we will reject this amendment. Thank you.

SENATOR FOSTER: Senator Hassan, although I think she just answered. I was going to ask whether this was a fork in the road and we have to go one way or the other, and I think your final comments perhaps answer that. Am I correct?

SENATOR HASSAN: Yes it is.

SENATOR CLEGG: Thank you, Mr. President. I rise in favor of the amendment. I understand that some people have said that the New Hampshire system is the REAL ID system and if...or is a system that if everybody had, we wouldn't need REAL ID. It's because the system is REAL ID. Now what happens if you decide we're not going to do REAL ID? Do we have to stop doing business the way we're doing it now? Some would say absolutely. In fact, I received an email today that talked about a case that the DMV has against the...from an Immigrants Rights Group that sued on the practice of how we issue our licenses. And that Judge McAuliffe granted summary judgment to the state on all but one account. And he relied heavily in his written opinion on the fact that we would have been required to do almost all those things anyway under the REAL ID Act. Because this bill's in this chamber, there's been a request for reconsideration, and among the reasons they have is that the legislature doesn't think the REAL ID is the right thing; therefore, the way they currently operate, isn't the way they should operate, and we should win. So do we take three steps backwards? Here's the issue. REAL ID does not take effect 'til 2008. We have plenty of time to have a commission come back to us in six months and say "Guys, here's the problem." Here's, the benefits, maybe there are no benefits." Now some people say, "Whoa, we gotta do it right now." What happened all this complaining about the RFID chips in your clothes? We sat here and said we should stop them from putting those chips in our clothes where they can track us. Stop 'em right now. And what'd I hear? "Let's not be too hasty." "Let's wait. Let's study this and come back next year and decide whether or not we should allow RFIDs in clothes." But, right now, we allow it because we didn't want to be hasty. That's something that exists today. So why do we want to wait on setting up a commission? Why do we want to jump right in and say, "We don't care what we find out in 2008, we're not going to go there." We've got two years. We're asking for six months to see what happens. And I know I got the emails that claim that they REAL ID's going to have a chip in it. I read

the law, it doesn't have a chip in it. If we can wait six months to see whether or not we need to regulate, whether or not industry can follow me around because of a chip in my pants or a chip in my shoes, then we can wait six months before we change the way we issue drivers' licenses and that's what we would be doing if you did this. Right now immigrants have to come to the state, they have to submit to a background check and then the best part of it all, we don't hand them their license. If they pass all those tests, we mail it to the address they claim to live at. If you want to see something, go to the Department of Safety and look at the boxes and boxes and boxes of the licenses that come back stamped, "No such person, no such address." Why are we ahead? Because we are REAL ID now. And again, if we can wait six months to determine whether or not people should track me through a chip in my clothes, we can wait six months to determine whether or not we need to start handing out drivers' licenses to anybody who walks in and asks for it. Thank you.

SENATOR FOSTER: Senator Clegg, if we can wait six months to see why a commission is going to come back, why is it that tomorrow morning, as I understand it, there's an agenda item that we're going to accept \$3 million to start this process?

SENATOR CLEGG: Senator, you must have a crystal ball, because there's ten people on that committee and I'm not so sure that ten people are going to vote to accept that money, but **TAPE CHANGE** 'cause you see in the crystal ball.

SENATOR FOSTER: I don't have a vote, so I thought you did and you'd let us know how you were gonna...

SENATOR CLEGG: I'm not sure. Maybe I'll wait until the commission comes back.

SENATOR FOSTER: Thank you.

SENATOR ODELL: Thank you, Mr. President. A question of Senator Hassan. Senator Hassan, I was taken by your comment about the fork in the road, and I share the same kind of concerns that Senator Barnes does. I feel a little of this and a little of that. And the protection of liberty and freedoms, I think is, whether it's President Lincoln or President Roosevelt or others, have at times gone to extraordinary means and maybe if we went to a lecture and heard sometimes stepped over the line in their determination to protect the nation. Am I correct that the 9/11 Commission, bipartisan, led by Tom Kean and Lee Hamilton, two of America's outstanding leaders, made this one of their recommendations, if not their top recommendation, one of their serious recommendations, that we do something along this line? I'm not saying exactly in this line. Am I correct on that?

SENATOR HASSAN: Thank you for your question, Senator Odell. Yes, in fact, I went to the 9/11 Commission Report to look at that, and they did recommend that some sort of national ID system be set. And, my objection is not to that notion altogether; my objection is that this bill, as REAL ID is structured, gives the federal government, through cabinet secretary, unlimited discretion to change the rules of what's involved and how far they would go. There's nothing in the bill that says we won't have an RFID chip in our license or that we won't have a national data pot that will make us more subject to identity fraud and terrorist threats. So that's my concern about this particular bill. It's the level of discretion...and the fact that the United States Senate hasn't had a hearing on it.

SENATOR ODELL: Follow up? Thank you. In the proposed amendment, in the six-month period for the study, do you think that that action is going to take place by the Homeland Security secretary in such a manner that we wouldn't have time during that period to come to a point of view about how that should be handled?

SENATOR HASSAN: I think we would have the time to come to a point of view, but if we accept the \$3 million and begin down the pilot project, we then have to comply with REAL ID as it is currently drafted and we have no guarantees about what will happen. I would hope that no matter what happens, we lobby our federal delegation to change the bill appropriately. But right now, we don't have any assurances of that happening, and once we accept this money, we are stuck with the system as it's designed in the current REAL ID bill.

SENATOR ODELL: Thank you.

SENATOR BURLING: My question is for Senator Odell, if he will yield. I direct this, Senator, to you because you raised the question of the 9/11 Commission. And, knowing you to be a man of sharp perceptions and a full understanding of the balance, are you not concerned that New Hampshire is now put in a position in which a federal mandate, really for a national identification card, is going to be imposed on the fifty states rather than adopted in Washington as a federal mandate? Perhaps an obligation to have a passport or something on our social security number cards, that we're being asked to go first into an unknown area with a federal mandate that has been through what we all would have to say is one of the strangest legislative processes you can imagine out of Washington. And I ask you again, because I know you know Washington and it's internal mechanisms perhaps better than the rest of us.

SENATOR ODELL: Thank you for your question, I think. I am torn. There's no question. I'm torn by events that are recalled to us by the sentencing today of a man who was a conspirator in the 9/11 attacks. I am concerned about the anecdotal information that we have about the po...other potential attacks. And the problem is, I feel inadequate in terms of my own knowledge and understanding of REAL ID and its total implications. And I think that I want to see New Hampshire do the right thing whether it be stand strong against the federal mandate in this area or to say we see the greater good and the greater safety in security that comes from cooperating and not looking at this as a mandate, but working together as fifty states with Washington, through the system that's already in place. And I gather from, again, anecdotally, that the New Hampshire driver registration system is very good. That may be in our best interest to work with Washington instead of drawing a line, and in a sense, maybe even miss that fork in the road situation.

SENATOR BURLING: Well, I think you've set the question beautifully for us. But if we were to act like New Hampshire state Senators, surely what we would want to do is continue to do the good job we're doing. Everybody tells us we're nearly there. But wouldn't we also, representing the interests of our people, demand that the federal government be responsible for making decisions that it wants to mandate, in its process, with its vote on the record, to be held accountable by the people of this country, rather than shuffling them off on the rest of us and seeing what we do with them? Don't you think there is an obligation to stand up for what is in effect, a state's rights position?



SENATOR ODELL: I think it could be taken as a state's rights position, certainly. But I would also say that we're in this together. Homeland Security is about communities. It's about not for profits. It's about first responders in our communities. It's about us as a nation pulling together to do the right thing for our security, and the right thing in representing our people. And that's the dilemma I'm in, and that's why I want to do the right thing, as you suggest. But I do think that standing up and saying that we unilaterally want to pull out of this proposed program may not be the best thing for us down the road. I am concerned about a national database. I am concerned about what I'm hearing about arbitrary opportunities for the Homeland Security secretary to adjust the program and the means by which things are done. But, because it comes from Washington in terms of the national perspective, I'm not sure as the state of New Hampshire, that we should, with the amount of information that we have today, simply draw that line.

SENATOR BURLING: Final follow up and then I'll... I hear each point that you make, Senator, but surely, if we are to be true to the interests of our constituents, we must demand the U.S. Congress, as it imposes this kind of obligation, fulfill its duty to debate publicly, discuss publicly, evaluate, and then pass in the proper order, an independent bill setting up a national identification card proposal. Of course we, as a state, are going to continue to cooperate with the other fifty states; that's not a question before us. But surely we have an obligation to demand that they do what is expected of the national legislature.

SENATOR ODELL: I think, Senator Burling, that you and I know enough about history and about the Constitution and about the operations of the Congress. The ultimate authority about making demands upon the Congress comes at the ballot box. I don't know that you and I can go to...and hold out and say that what was done in Washington is inappropriate or wrong. There's constitutional redress. There's also the redress at the ballot box. But from my understanding, the law that they passed is legitimate, legal. You may not like the manner in which it was done, but we can't say that they did anything unlawful.

SENATOR HASSAN: Thank you, Mr. President. Of Senator Burling. Senator Burling, would you believe that, if all of the states follow New Hampshire and reject REAL ID because of the concerns about the way it was passed and some of the unlimited power it gives, that it would be a very likely motivation for our federal delegation to bring in new legislation to correct the deficiencies we're concerned about and have a full hearing on them?

SENATOR BURLING: Senator, I can't imagine anything that would get their attention more focused on the prospect of proper legislating.

SENATOR BRAGDON: Mr. President, I move the question.

SENATOR GATSAS (In the Chair): I have three speakers left. Senator Larsen, Letourneau, and Morse, and Kenney sorry. And Kenney.

SENATOR LARSEN: Thank you, Mr. President. We've been talking about patriotism. We've been talking about Homeland Security. We've been talking about good government. But my deepest sense of patriotism requires me to protect the privacy rights and the liberty of our citizens guaranteed to us in Article II of the New Hampshire Constitution, encouraging and enjoying and defending of life and liberty. My deepest sense of homeland security requires me to fight for laws that guarantee my home and property are free from invasion of any government, especially my

own government which seeks to pry and track. My deepest sense of good and trustworthy government requires me to stand up and oppose laws that have been passed in the dark of night without the scrutiny and sunshine of good public involvement. And my deepest sense of right from wrong requires me to fight against a process that would in this good chamber, pose to stand for people's rights by appointing a commission while allowing for REAL ID preparations to go...continue while the bill continues to...while the bill fails. I don't believe we should use the cloak of war to pass this bill. I am sorry, to pass the REAL ID Act. I believe we need to pass House Bill 1582 as it was drafted. We don't need a commission. Tomorrow morning we go into Fiscal Committee, as you heard, and the first item on the agenda is acceptance of \$3 million of REAL RFID...I'm sorry...REAL ID money. That is a mistake. I don't know the outcome of how that vote will come out, but I think, if we pass this bill today, unamended, we can guarantee that we won't be accepting \$3 million in bribe money. I encourage you to not pass the amendment, but to pass House Bill 1582 unamended.

SENATOR MORSE: Thank you, Mr. President. I find this ironic. I had phone calls this week while I, too, buried a veteran, and I answered the phone calls, and they actually had me convinced that maybe I was thinking wrong because last week I was asked to think different and maybe I should protect liberties. You're talking to me. You're talking to a guy that says we shouldn't have to wear helmets. You shouldn't have to tell somebody to put a life preserver on. You shouldn't have to tell a kid to wear a helmet. You're talking to me about liberties. Yet when we vote right now, we're going to vote on liberties. I can't wait to go back and look at the record in this Senate. And then, we start to debate as a Senate, and we've talked about Director Beecher. You know, that's poppycock! We're all responsible for what's going on over there. And it is not strong leadership on our part or on the Governor's part, to be going after Director Beecher who is one of the hardest working directors we have, if we haven't done our job over here! Now, you know Senator Gregg has never let us down. So while we're going after Director Beecher, and next we're going after Senator Gregg. Do you honestly believe that when we go to vote on that \$3 million tomorrow, that we're not going to look at it with stipulations? You guys can't get a budget through here without us looking at it. I find it hard to believe that Senator Gregg would put us in the position as a pilot state that we're not going to have enough money to put the pilot program in. And furthermore, where I changed my mind was this morning when a Purple Heart veteran in our delegation asked me to support his legislation. I would think he knows better than anyone that called me! And you know what he said? He said, "Senator, it doesn't go into effect until 2008. We need time." What's wrong with that? We give time to everything that everyone asks for in here! I support Senator Barnes' amendment and I believe we should all support Senator Barnes' amendment.

SENATOR LETOURNEAU: You've got me on to speak?

SENATOR GATSAS (In the Chair): If you don't want to speak, you don't have to speak.

SENATOR LETOURNEAU: Excuse me?

SENATOR GATSAS (In the Chair): I said, if you don't want to speak, you don't have to speak.

SENATOR LETOURNEAU: Well, I needed to say a few things to get the record straight. Like Senator Morse, everybody in this room knows how I feel about liberty, how I feel about our freedoms. More than once, I've talked about this issue here on this floor and on the floor next door. And I've been going over this stuff for two weeks, and I've called both our congressional delegation, our U.S. Senators, both offices. I've spoken to the Director of Motor Vehicles trying to get as much information on what is and what isn't, and what's going on with this national ID. It's not a national ID. It's REAL ID. You got me saying it now. In the first flush, I was definitely opposed to this legislation. But with everything else that's going on, you have to look into it and find out what's going on. One of our Senators believes that this legislation is actually a good positive step forward in correcting problems that we have. Another one of our Senators also believes it's a positive step, but he also thinks it's a tenth amendment issue. This bill was brought forward...or this law was created as a result of the key recommendation of the 9/11 Commission. These people poured over the documents from that fateful day where 3,000 Americans died. And this is the thing they said, "We need a standard for drivers' licenses so that each state uses the same format." This is a national ID. They don't all go on one data base. Each state keeps its own data base. Remember, each of those terrorists that got on those planes on that fateful day had a valid driver's license from some state even though their green cards had expired. How did that happen? That happened because they didn't have a system like New Hampshire has. None of them had a New Hampshire driver's license. Now this law is in effect and the clock is ticking. The question is whether we in New Hampshire are going to go along with it. I say recommendations because there is no requirement to comply with this. None whatsoever. We don't have to comply. However, if we don't, there are consequences for our citizens, and these are some of the things that I have found out over the past couple of weeks. First of all, there'll be no acceptance of our current drivers' licenses by federal authorities at any federal installation. Airports and boarding aircraft will be the most inconvenient. You will need a federal identification such as a passport or a federal identification card to enter any federal building, public building, museum, Smithsonian, federal courthouses. And we are told there are states already enacting laws now that says if your state doesn't conform with the national standard driver's license, they won't accept those drivers' licenses in their states. Can you imagine going on vacation, getting stopped for a tail light out and being told you can't drive any further? I don't know if that's true, but that's a possibility. Worse than that, we have truck drivers with CDL licenses that go cross country all the time. Will their license be valid? That's just what I've learned in a week. There could be other unintended consequences. What does this mean to our residents of New Hampshire? Are we going to tell a family of five that's going to Disney World they got to spend \$500 to buy passports for their family to go to see Mickey Mouse or Donald Duck? That's before they even buy tickets. That's crazy. This is what I also learned, and you heard it said already on this floor. New Hampshire is 95 percent there. And we were told, or I was told, by the Representative of the United States Senate Judiciary Committee, the counsel for that committee, that we had to make four changes in what we already do. This is verified by the Director of Motor Vehicles. One of them is we have to train our employees to recognize fraudulent documents and foreign immigration papers. Two, we need to update our licenses to the new standard, which includes a bar code. No RFID chips.

They would fight that tooth and nail. I was told that over the phone. Both the Commissioner and the Director of...vehemently opposed to any kind of RFID chips. Basically you have to put in a new system, new computer system as this is where the money is, this is what the grant is for. Third, we have to mark temporary licenses for temporary people who come into the state with green cards as temporary. That's not so difficult. And fourth, we have to update the computer system. A couple of comments for my friends here that have made comments. The tankers off shore. They don't just come into Portsmouth without being checked. The Coast Guard goes out past the three mile limit and boards those craft before they get into our waters. "Data sharing", we already do that. That's something New Hampshire's been doing for a long time. Law enforcement has the right, when you get pulled over, no matter where you are, to find out what your driver's license record is. There's nothing new there. This amendment that Senator Barnes has brought forward gives us time to find out all the real truths and mistruths that have been going on. Currently right now, the Homeland Security is meeting to come up with the rules. Those rules haven't even been adopted yet. They will be adopted this fall. This commission that is being set up in New Hampshire, will have a chance to deal with that...with those issues. This goes into effect May 1, 2008. Last but not least, this is not a national ID card. It's a New Hampshire driver's license that is a standard that every other state's got to apply with the same. So when they have readers to read these licenses, they all can read the same thing. It's a standard. The data base stays in New Hampshire. And right now, about ten minutes of six, Representative Packard is getting on a airplane to go to a meeting in Philadelphia, and he's the Chairman of the NCSL Committee that's looking into the REAL ID Act and they're going to be meeting all weekend on this and they're going to be bringing back information. I say we need to get all that information before we go crazy and tell the federal government that we're not going to comply with a law that they passed and put our citizens at risk of not being able to use their driver's license out side of our state. Thank you.

SENATOR HASSAN: Of Senator Letourneau please. Senator Letourneau?

SENATOR LETOURNEAU: Yes, Senator.

SENATOR HASSAN: Are you able to show me where in the REAL ID Act it says that there won't be RFID chips sometime in the future and that there won't be a national data base?

SENATOR LETOURNEAU: No more than you could show me that it's in there now, and it isn't. We've looked.

SENATOR HASSAN: Follow up? But are you aware of the provision that says the Secretary of Homeland Security may change the rules as to what's required at any time?

SENATOR LETOURNEAU: The Commissioner of this state, the Department of Motor Vehicles, the Department of Safety, has said continuously, he will not adopt any RFID chips in our drivers' licenses. Will not do it.

SENATOR HASSAN: And final follow up? And are we then...is he then prepared to return whatever money we accept for REAL ID compliance if we refuse the federal government?

SENATOR LETOURNEAU: We don't believe that that's going to be a mandate. They don't believe it's going to be a mandate. Our Senators don't believe it's going to be a mandate.

SENATOR HASSAN: Thank you.

SENATOR BURLING: Thank you. Senator Letourneau if I may?

SENATOR LETOURNEAU: Thank you, Senator Burling, and yes I will.

SENATOR BURLING: Senator, you touched on one of the most important points that the committee dealt with in its substantive deliberation. We heard on several occasions the point that you made just a minute ago, that unless we bend our knee to REAL ID, we're not going to be able to take the plane. We're not going to be able to take the bus. We're not going to be able to cross the border. In fact, Director Beecher said we were going to have to have a passport to get into the Commonwealth of Massachusetts. My question is this, Senator. If any of that is nearly true, isn't that reason for patriots to stand up now and say enough, this is madness?

SENATOR LETOURNEAU: Senator Burling, thank you for the question. The federal government has deemed this to be admittance to their facilities, not our facilities. I don't know about Massachusetts. I can't comment on that.

SENATOR BURLING: Follow up? Senator, if you are telling the truth as you see it, and I know you are.

SENATOR LETOURNEAU: You know how I feel about this.

SENATOR BURLING: I do. What then will we do for the tens of thousands of New Hampshire citizens who do not get a license? Are they going to be stopped at the border? Is my sister in-law going to be told, "I'm sorry, we don't allow you in any more"?

SENATOR LETOURNEAU: How does she get on a plane now? How does your sister get on a plane now?

SENATOR BURLING: Well, there is no current requirement that she have a photo ID to get on a plane.

SENATOR LETOURNEAU: Senator, I flew just a few weeks ago. I had to show my license to get a ticket. I had to show my license to go through the x-ray machine, and then I had to show it again before I got on the airplane. You have to show some form of identification.

SENATOR BURLING: Alright, if I may answer that question. You know, actually for those of us who were in the committee and listened to all the testimony, it was made quite clear that there is a subsequent pat-down search process which absolves one of the obligations of having a photo ID.

SENATOR LETOURNEAU: That's correct, but it goes away on May 1, 2008.

SENATOR FULLER CLARK: Yes, I have a question for Senator Letourneau. Senator Letourneau, you just talked about the fact that we would not have access to federal facilities without this card because they're not our facilities. My understanding is that we are part of the federal government. And that we pay, through our tax dollars, for those facilities. And for you to say that they are not our facilities, how would you explain that?

SENATOR LETOURNEAU: No, you misunderstood me, Senator. I'm sorry. I didn't say they weren't ours, I said they were federal facilities and they have governing control over them. The last time I went down to the federal courthouse down here, down the street, I had to show my ID. I had to leave my cell phone at the counter, and I couldn't go past

there until they did a search because I had things going off because of pins and stuff. They do as much searching at this federal courthouse as they do at the airport. It's a reality.

SENATOR FULLER CLARK: Follow up? However, if we as citizens of the United States do not stand up at certain points and say "We don't want to accept this process, but we want to work on that process", aren't we...no, not fulfilling our responsibility as citizens of the government and that there comes a time when we have the right to vote about what the federal government can and cannot do? I think the concern here today is that we're giving up that right.

SENATOR LETOURNEAU: Well, we can vote either way we want. We don't have to comply with the federal law. You just have to realize there are consequences which I have pointed out. Consequences that many of my constituents who I have spoken to over the last several weeks, do not want to have to go through. So this is a decision that we each have to make.

SENATOR FULLER CLARK: Thank you.

SENATOR GOTTESMAN: Thank you, Mr. President. Senator Letourneau, I have to assume that the amendment, which is dated May 3...

SENATOR LETOURNEAU: Senator, I'm a little hard of hearing so you'll have to speak a little louder.

SENATOR GOTTESMAN: I apologize. I am assuming that the amendment which is dating May 3<sup>rd</sup> was new to you as it was to me, just when it was presented here today. Is that correct?

SENATOR LETOURNEAU: It was new today. That's correct.

SENATOR GOTTESMAN: And follow up? And I assume that you and anyone else who would be voting for this amendment, would have had to vote a different way, either up or down, before this amendment was presented.

SENATOR LETOURNEAU: That's true Senator, and this is another option that we have for our disposal, to enable to do something with this other than just tell the government that we're not going to...we're going to opt out of the REAL ID Program and put our citizens at risk for all the items that I discussed.

SENATOR GOTTESMAN: Thank you.

SENATOR ESTABROOK: Thank you. Of Senator Burling. Senator Burling, would you say that, in large measure what we're discussing here is a matter of timing, and that what you are advocating is that we opt out now while it is unclear what we are getting into, because we have until May '08 to perhaps opt back in when we understand what we're getting ourselves into? Is that an accurate description of the discussion to some extent?

SENATOR BURLING: Senator, I think that's exactly the point. And you know, having lived in New Hampshire almost all my live, I'm mindful of that moment in December when the first ice forms on our ponds and people with good conscience put out signs that say, "Caution. Thin Ice." We all know that we're smart enough not to go out on that ice 'cause it may cause us serious injury when we fall through, but we also act in the confidence that the ice is going to get thicker and maybe it'll be okay by January.

SENATOR ESTABROOK: Follow up? Thank you, Mr. President. So the ramifications that have been discussed here today in terms of what our citizens will be required to do should we opt out, will not take effect until May '08, and therefore, should we decide to opt out today, we are not subjecting our citizens to those ramifications at this point.

SENATOR BURLING: I believe that our action by opting out today will have two effects. First, it will avoid exposing our citizens to the potential unknown and negative affects of a REAL ID Program that is at least a blizzard of uncertainty, and at the same time, it will allow other states whose legislatures have the courage of their convictions to stand up and act like men and women of good conscience and force Washington to do this right. That is a consequence of people from even a little state. Remembered the mouse that roared? It wouldn't hurt to roar some, folks.

SENATOR ESTABROOK: Thank you.

SENATOR GATSAS (In the Chair): Our final speaker, Senator Kenney.

#### PARLIAMENTARY INQUIRY

SENATOR CLEGG: May I make a parliamentary inquiry?

SENATOR GATSAS (In the Chair): Parliamentary inquiry.

SENATOR CLEGG: When we moved the question, that means no new speakers. Is the only way we can get around that is consistently ask our colleagues questions so that we can continue to speak anyway?

SENATOR GATSAS (In the Chair): Senator Kenney will be the final speaker and final questioner.

SENATOR CLEGG: Thank you, Mr. President.

SENATOR KENNEY: Thanks, Mr. President. I rise in support of the Barnes' amendment. I do it primarily as a kind of a cooling down period so that we can look at this bill for what it is. I was a sponsor of SCR 8 which opted out of the REAL ID Act provisions, and I did that because I felt passionate about it, and that bill was tabled. I still feel very passionate about the issue, but there has been a lot of confusion. I am a little bit disappointed that this was not debated in Washington as a separate bill and that it was tacked onto an emergency funding bill because I think that we, as citizens in New Hampshire, really lost the opportunity to debate it in Washington, and I think the nation probably lost a chance to debate it as a separate bill. Now, I respect the men and women who rest in Boscawen Veterans' Cemetery who protected our freedoms, and I cherish those freedoms as much as you and everyone else does. But there are times when I say to myself, I wish there was Ronald Reagan who was out there, because Ronald Reagan, when this whole proposal of the national ID was approached to his administration, absolutely said no. And we are in the midst of a cold war. And I said, you know, there's a lot of sense in that. I also looked at the Carter years in 1977, when we looked at Social Security ID as a possible universal identifier, and that was rejected. And the health security card in 1993 was rejected in the Clinton administration. But I will say this. There's a historian out there called David McCullough who wrote the history of John Adams, and they asked him, what was the most treacherous point in our history of the United States? He said, "It happened after 9/11." He said, "9/11 changed everything." And we as a nation, as a state, have to determine

if we're going to do things that are going to take away our freedoms because of the threat that is out there. And that's really the debate that we're having. And I do think that we're living in treacherous times and that we have to take appropriate security measures. But we have a lot of data bases that are in place today. One of them's called "the national crime information center" which the FBI has, which records criminal records, history, fugitives, stolen properties, missing purpose...people. That is probably the closest that we get to a kind of a national data base. But those are for criminals. What I really don't want to do, or see our nation ever get to the point when we are tracking good and honest citizens because that's when the revolt is going to happen in full scale. So I respect all the debate that's happened today. I think we need to give it more thought. And I think that Senator Barnes did the appropriate thing to create kind of a cooling down period so that we can put our heads together and decide if we want to be a part of this or not. Again, I would have preferred two days ago, to send a resolution back to Washington to say "Listen, you folks need to re-debate this and let New Hampshire and the nation go ahead and look at if it wants this coming out of Washington because I hate the carrot stick approach where you present something, and by golly if you don't do it, you don't get the carrot." I think, you know, through this commission, that we hopefully, can send that signal to Washington, that we want to be a participant in this most important issue to protect our freedoms and liberties. Thank you, Mr. President.

**The question is on adoption of the floor amendment.**

**A roll call was requested by Senator Burling.**

**Seconded by Senator Larsen.**

**The following Senators voted Yes: Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Eaton, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**The following Senators voted No: Gallus, Burling, Bragdon, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**Yeas: 14 - Nays: 9**

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**A roll call was requested by Senator Burling.**

**Seconded by Senator Bragdon.**

**The following Senators voted Yes: Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Eaton, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**The following Senators voted No: Gallus, Burling, Bragdon, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**Yeas: 14 - Nays: 9**

**Adopted.**

**Ordered to third reading.**

**HB 1295**, requiring notification regarding brake shift interlock and key positions by automobile dealers to consumers. Transportation and Interstate Cooperation Committee. Ought to pass with amendment, Vote 4-0. Senator Letourneau for the committee.



**Transportation and Interstate Commerce****April 26, 2006****2006-2071s****05/10****Amendment to HB 1295**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to notice brake shift interlock and key positions by automobile dealers to consumers.

Amend the bill by replacing all after the enacting clause with the following:

1 New Section; Equipment on Vehicles; Notification of Brake Shift Interlock and Key Positions. Amend RSA 266 by inserting after section 27-a the following new section:

266:27-b Notification of Brake Shift Interlock and Key Position by Automobile Dealers.

I. All motor vehicle dealers shall post the following notice in a prominent location at their place of business:

Important Safety Factors Regarding Automatic Transmissions and Key Positions

1. Most newer model motor vehicles with automatic transmissions are engineered with a "brake shift interlock" system as a safety mechanism, which prevents movement from the "park" position unless the service brake is applied.

2. Some vehicles are engineered whereby the vehicle may be shifted from "park" to "neutral" in a "key" position before the engine has been started without applying the service brake, which may cause the vehicle to roll. Your vehicle may not contain roll prevention safety in all key positions.

3. Consumers should become familiar with the specific characteristics of their vehicles in all "key" positions.

4. It is strongly recommended that the "parking" brake be engaged when the vehicle is parked on a grade.

II. Nothing in this section imposes any liability on a motor vehicle dealer or creates a cause of action by a consumer against a dealer.

2 Effective Date. This act shall take effect January 1, 2007.

**2006-2071s****AMENDED ANALYSIS**

This bill requires motor vehicle dealers to post a notice regarding the operation of brake shift interlock systems and key positions.

SENATOR LETOURNEAU: Thank you, Mr. President. I've got to put my glasses on. I move House Bill 1295 ought to pass with amendment. This bill requires motor vehicle dealers to provide customers with a written notice regarding the operation of a brake shift interlock systems and key positions. The goal of this bill is to ensure that customers are given all the facts concerning this anomaly so they can protect themselves and their family. The committee amendment replaces a written notice requirement with a requirement of the motor vehicle dealers to post a notice in a prominent location, regarding the operation of brake shift interlock systems and key positions. The amendment also states that no liability is imposed on motor vehicle dealers or creates a cause of action by a consumer against a dealer. Please join with the Transportation Committee and vote ought to pass with amendment. Thank you.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1530**, naming the road to the supreme court and the administrative office of the courts Charles Doe Drive and naming the campus of the supreme court and the administrative office of the courts Charles Doe Place. Transportation and Interstate Cooperation Committee. Ought to pass, Vote 4-0. Senator Letourneau for the committee.

SENATOR LETOURNEAU: Thank you, Mr. President. I move House Bill 1530 ought to pass. This bill names the road to the Supreme Court and the administrative offices of the courts Charles Doe Drive. The bill also names the campus of the Supreme Court and the administrative offices of the courts Charles Doe Place. Charles Doe was born in 1830 in the great town of Derry and served thirty-five years on New Hampshire's Supreme Court. The name changes will be used as an honor as well as to educate those in the legal profession and the general public about this important man and what we can learn from his life. Please join the Transportation Committee and vote ought to pass. Thank you.

**Adopted.**

**Ordered to third reading.**

**HB 1581**, relative to drivers' licenses issued to persons under the age of 21. Transportation and Interstate Cooperation Committee. Ought to pass with amendment, Vote 4-0. Senator Burling for the committee.

**Transportation and Interstate Cooperation**

**April 20, 2006**

**2006-1914s**

**03/01**

### **Amendment to HB 1581**

Amend the bill by replacing section 1 with the following:

1 Form of License. Amend RSA 263:40 to read as follows:

263:40 Form of License. The commissioner shall, upon payment of the required fee, issue to every applicant a driver's license subject to such conditions as the commissioner may deem expedient and in such form as the commissioner may prescribe. *Licenses issued to persons under the age of 21 shall be designed so that their horizontal and vertical axes are opposite the horizontal and vertical axes of licenses issued to other persons, and said licenses shall prominently display the date on which the licensee shall attain the age of 21 years. Consistent with RSA 263:14, the youth operator license shall expire on the 21<sup>st</sup> anniversary of the applicant's date of birth, at which time the applicant shall be issued a tradition license.* The license shall bear thereon a distinguishing number assigned to the licensee and an instant full-face color photograph, image, or likeness of the licensee. There shall also be provided a space wherein the licensee may enter his or her blood type if [he] *the licensee* so desires.

SENATOR BURLING: Thank you, Mr. President. Mr. President, I move ought to pass on 1581, ought to pass with amendment. The bill requires that drivers' licenses issued to persons under the age of twenty-one will be of a different design than other licenses. The committee amendment adds that these licenses display the date on which the licensee will reach the age of twenty-one. Consistent with RSA 26:14, the youth operator's

license will expire on the licensee's 21<sup>st</sup> birthday, at which time the applicant shall be issued a new license. Please join the Transportation Committee and vote ought to pass with amendment. Thank you, Mr. President.

SENATOR BOYCE: I just have a question. I think this is probably an enrolled bills question. Senator Burling, I figure your opportune to ask this. I see in the committee amendment that it says that it will "be issued a tradition license". I suppose that enrolled bills can change that to "traditional" so that we can have the "traditional"?

SENATOR BURLING: I would hope it would be "traditional", yes.

SENATOR BOYCE: Thank you.

**Amendment adopted.**

SENATOR BURLING: You are ahead of me. I don't know what this is. I'm sorry.

SENATOR GATSAS (In the Chair): We're on 1581, Senator.

SENATOR BURLING: I do not recognize this document. I think we're done.

SENATOR GATSAS (In the Chair): Okay, we're done.

SENATOR BURLING: A spontaneously generated floor amendment that I hadn't seen before.

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

SENATOR KENNEY: May I ask a request to take a bill off the table?

SENATOR GATSAS (In the Chair): Which one, Senator?

SENATOR KENNEY: House Bill 1574, relative to membership on the public employees deferred compensation commission.

SENATOR GATSAS (In the Chair): That was earlier today, Senator?

SENATOR KENNEY: Yes. Yes, Mr. President.

SENATOR GATSAS (In the Chair): And the bill number again was 15..?

SENATOR KENNEY: 1574.

SENATOR GATSAS (In the Chair): Okay.

SENATOR KENNEY: And that was on page six under ED & A, or five.

**MOTION TO REMOVE FROM THE TABLE**

Senator Kenney moved to have HB 1574 taken from the table.

**Adopted.**

**HB 1574**, relative to membership on the public employees deferred compensation commission.

**The question is on the committee amendment (#2078).**

SENATOR FOSTER: Thank you, Mr. President. I rise in opposition to the committee amendment so we can offer an alternative amendment that Senator Kenney and I have worked on. What the amendment will do is change the amount in the amendment, which appears on page 23 of your calendar from \$500 to \$10,000 for the application on a Class B felony. The way it currently reads, if somebody didn't pay a \$500 fine to

the Secretary of State arising out of an order for securities fraud, they could be assessed a Class B felony. We thought that probably was a little bit harsh. And, in discussions with the Secretary of State, they think an appropriate number is in fact \$10,000. So I would ask to vote against the committee amendment so we can bring forward the alternative amendment.

### **Amendment failed.**

Senator Foster offered a floor amendment.

Sen. Foster, Dist. 13

Sen. Kenney, Dist. 3

**May 4, 2006**

**2006-2206s**

**09/10**

### **Floor Amendment to HB 1574**

Amend the title of the bill by replacing it with the following:

AN ACT relative to membership on the public employees deferred compensation commission and relative to criminal penalties for certain securities violations.

Amend the bill by inserting after section 1 the following and renumbering the original section 2 to read as 3:

2 Securities; Criminal Penalty. Amend RSA 421-B:24, I to read as follows:

I. Any person who willfully violates any provisions of RSA 421-B:3, 421-B:4, 421-B:5 or [a] ***fails to comply with an order from the secretary of state to cease and desist [order] or for an injunction issued pursuant to RSA 421-B:23, or who fails to comply with an order to pay a fine, penalty, rescission, restitution, or disgorgement greater than \$10,000 pursuant to RSA 421-B:10, 421-B:23, or 421-B:26,*** or who violates RSA 421-B:19 knowing that the statement was false or misleading in any material respect, shall be guilty of a class B felony. Each of the acts specified shall constitute a separate offense and a prosecution or conviction for any one of such offenses shall not bar prosecution or conviction for any other offense.

**2006-2206s**

### **AMENDED ANALYSIS**

This bill replaces the director of the office of securities regulation with the secretary of state or designee as a member of the public employees deferred compensation commission.

The bill also makes it a crime to fail to comply with certain orders of the secretary of state regarding securities violations.

SENATOR FOSTER: Yes, I would like to offer amendment 2206s, which I...

SENATOR GATSAS (In the Chair): Amendment 2206s has been proposed. You may speak to the amendment as it's being distributed.

SENATOR FOSTER: As we said, it...the only difference between the amendment that was recommended by the committee and this one is it changes \$500 to \$10,000 so that, if somebody doesn't pay a \$10,000 fine, they could be subject to criminal prosecution. The Department explains that the main reason they need this is that a lot of the folks who violate our securities laws are out-of-state. If they can charge them with a felony, they can get an extradition order to bring them back, you know,

which I think is a good purpose. We just wanted to make sure the threshold of the crime was enough. So they're fined with \$10,000, don't pay it, or if they do the other things in here, they can be brought back to stand criminal prosecution.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 1580**, relative to the child support formula. Ways and Means Committee. Ought to pass with amendment, Vote 2-1. Senator Boyce for the committee.

Sen. D'Allesandro, Dist. 20

**April 26, 2006**

**2006-2069s**

**05/04**

### **Amendment to HB 1580**

Amend the bill by replacing all after section 7 with the following:

8 New Paragraph; Child Support Guidelines; Definition of Day. Amend RSA 458-C:2 by inserting after paragraph III the following new paragraph:

III-a. "Day" means more than 12 hours of a calendar day which is spent by a child under the control of a parent, and that parent expends a reasonable amount of resources on the child during such time period, such as the cost of a meal or other costs directly related to the care and supervision of the child. Partial days of parenting time that are not consistent with this definition shall not be considered a "day" under the child support guidelines. A "day" under the control of a parent includes a day the child is not in the parent's home, but is under the parent's control, for example, with the parent's permission at camp or with friends.

9 Commission to Study Child Support Extended to December 2007. Amend 2005, 256:1 and 256:2 to read as follows:

256:1 Extension of Commission to Study Child Support and Related Child Custody Issues. The commission to study child support and related child custody issues, established in 2003, 277 (HB 310), shall be extended in order to continue studying the recommendations of its final report dated December 4, 2004, as well as any new economic data on the cost of raising children in New Hampshire, and to serve as a continuing resource to the general court and the department of health and human services in revising, if appropriate, the child support guidelines. The commission shall study the problem of how many financial "add-ons" parents can afford over and above their child support obligation and how that affects the ability to pay child support obligations. The incumbent house members of the commission shall call the meeting to reconvene the commission. Upon reconvening, the commission shall elect a chairperson and vice-chairperson from among the members and shall meet with such frequency as the commission deems appropriate. A vacancy on the commission shall be filled by the original appointing authority. The commission shall submit a final report relative to implementation of its recommendations on or before December 1, ~~2006~~ **2007**, as well as any new economic data on the cost of raising children, to the speaker of the house of representatives, the senate president, the governor, the house clerk, the senate clerk, and the state library.

256:2 Appropriation to Department of Health and Human Services; Economist. The sum of \$80,000 is hereby appropriated to the department of health and human services, for the fiscal year ending June 30, [2006] **2007**, for the purpose of hiring economists to assist in revising the child support guidelines. The department also may accept any matching federal funds available for such purpose. The economists shall be qualified to assist the department and the commission to study child support and related child custody issues, established in 2003, 277 (HB 310), in developing, if appropriate, a basic cost model or similar method that will consider an equitable and affordable sharing of child support obligations and that will ensure that the best interests of the child have been taken into consideration in determining child support awards. ***The economist shall report his or her findings and recommendations relative to the New Hampshire child support guidelines to the department of health and human services and the commission to study child support and related child custody issues, established in 2003, 277, as amended by 2005, 256:1 and this section.*** [The] Funds ***appropriated in this section*** shall be in addition to any other funds appropriated to the department of health and human services. The governor is authorized to draw a warrant for said sums out of any money in the treasury not otherwise appropriated.

10 Effective Date.

I. Sections 1-8 of this act shall take effect January 1, 2008.

II. The remainder of this act shall take effect upon its passage.

**2006-2069s**

#### AMENDED ANALYSIS

This bill amends the child support formula so that child support amounts are based primarily on income and the amount of time that the child spends with each parent. The changes shall take effect January 1, 2008.

The bill also directs the parties to file their child support worksheets with the court and requires the court to provide the basis for either adjusting or declining to adjust the guidelines for special circumstances.

The bill also extends the commission to study child support and related child custody issues, established in 2003, 277, to December 1, 2007 and extends the appropriation for an economist to review and revise the child support guidelines.

SENATOR BOYCE: Thank you, Mr. President. I move that House Bill 1580 ought to pass with amendment. This bill would change the current child support formula to take into account the incomes and parenting time of both parents in determining child support payments. The amendment will change the effective date to January of 2008, extend the Commission to Study the Child Support and Related Child Custody Issues, and also extend the \$80,000 appropriation to the Department of Health and Human Services to hire an economist to assist in reviewing the child support guidelines. The Ways and Means Committee recommends that this legislation be adopted as amended and thanks for your support.

#### MOTION TO TABLE

Senator Roberge moved to have HB 1580 laid on the table.

SENATOR BURLING: I'm sorry, Mr. President. Are we tabling the amendment or the whole bill?

SENATOR GATSAS (In the Chair): Right now, Senator, the whole bill goes on the table.

**The question is on the motion to lay on the table.**

**A roll call was requested by Senator Roberge.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Burling, Green, Flanders, Odell, Roberge, Gottesman, Foster, Larsen, Barnes, Martel, Estabrook, Hassan, Fuller Clark.**

**The following Senators voted No: Boyce, Eaton, Bragdon, Clegg, Gatsas, Letourneau, Morse.**

**Yeas: 16 - Nays: 7**

**Adopted.**

### **LAID ON THE TABLE**

**HB 1580, relative to the child support formula.**

**Recess.**

**Out of recess.**

### **MOTION TO REMOVE FROM THE TABLE**

**Senator Barnes moved to have HB 1580 taken from the table.**

**The question is on the motion to remove from the table.**

**A roll call was requested by Senator Roberge.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**The following Senators voted No: Burling, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**Yeas: 16 - Nays: 7**

**Adopted.**

**HB 1580, relative to the child support formula.**

**The question is on the adoption of the committee amendment (#2069).**

**SENATOR CLEGG: Mr. President, I urge my colleagues to vote no on the committee amendment.**

**SENATOR GOTTESMAN: Thank you. In all due respect to Senator D'Allesandro who worked very hard on this amendment...**

**SENATOR GATSAS (In the Chair): Senator Gottesman, he heard you all the way over in England.**

**SENATOR GOTTESMAN: I know he worked very hard on it and I know that his voice hasn't been here for the last couple of days, but his heart is here. He wanted this amendment to go through because he thought it would provide for the payment for the study that is required under this provision. Whether you believe in the passage of the bill or not, he felt this was a benefit. Thank you, Mr. President.**

**Amendment failed.**

**SENATOR ESTABROOK: Thank you, Mr. President. If we're going to have a vote on this bill, I feel I need to rise and explain why I feel that this body should find this bill inexpedient to legislate. I don't think there's anyone in this chamber...I think actually all of us in this chamber, value**

the involvement of two parents whenever possible with a child. In fact, I was a sponsor of a bill on parental involvement. But even more than that, I usually stand to speak in this chamber for what I believe is in the best interest of New Hampshire's children. And I don't believe this bill is in the best interest of New Hampshire's children for two reasons. The first, as we can see from the Department's own fiscal note, this bill will lead to less child support being ordered by the courts. It will lead to a greater number of families ending up on TANF. Currently, 27 percent of New Hampshire's female headed families with minor children are living below the poverty line. I think that's quite enough. I don't think we need to adopt a measure that makes that statistic grow. The other reason that this bill is not in the best interest of children, and the reason no other state has adopted the per diem approach to child support, is that this bill would undoubtedly lead to greater litigation and greater acrimony in what is already a difficult situation of divorce, especially for children. We all know that these situations, at their worst, can become violent and this bill will only feed into that. It provides a one-size fits all formula. When you read the bill it almost looks like your reading the school funding formula that gives no leeway for taking into account individual children's needs or their safety. And it's for those reasons that the Legislative Caucus for Young Children, the Commission on the Status of Women, New Hampshire Coalition against Domestic and Sexual Violence, and the Children's Alliance, all oppose this bill. We have a commission, a committee studying what changes we might make to our child support laws, that will be in the best interest of children. But this is not the measure we should adopt. Thank you, Mr. President.

SENATOR ROBERGE: Thank you, Mr. President. I know we've heard a great deal about House Bill 1580. Before we vote, I think we need to step back and think about what is child support supposed to accomplish. The goal of child support policy should be to enable a child to enjoy the standard of living that the income of both parents will support. Child support payments are a major factor in reducing child poverty. This is good for kids and good for the state. Read the fiscal note which was just provided to us last week. According to Health and Human Services, the reduced child support payments would result from this bill and will both increase welfare grants we pay for families already receiving assistance, and also make new children eligible for assistance. We may also lead to a reduction in federal assistance to run child support enforcement. The taxpayers of this state will pick up the responsibilities that parents are now paying. House Bill 1580 is premature. It's supporters have not done...have not completed their homework. For twenty years, the federal government has required states to adopt child support guidelines. The guidelines afford the wide variation caused in child support orders caused by case by case decisions. The federal government requires each state to periodically review their child support guidelines. The review is supposed to include economic data on the cost of raising children. There are problems in contracting with an economist to carry out this review so it has not been done. The new contract should be awarded in the next few months. We have heard from the federal government that the guidelines would not meet their requirements if we adopt them before this economic review is completed. House Bill 640, which we passed just last year, brought major changes to the way families worked their way through divorce. We don't know what changes that will bring about to child support arrangements. Before we try this massive overhaul in House Bill 1580, we should allow the existing Child Support Commission and the



courts to systematically collect information on how House Bill 640 is working. Has the increased use of mediation and the creation of parenting plans reduced the overall animosity of divorce? Have they reduced the fighting over child support? House Bill 1580 is the wrong solution in dealing with changes in parenting schedules. In more and more families, both parents continue to be heavily involved in the lives of their children. This is a good thing. But spending more time with children does not necessarily translate to providing more support for them. There are other and better ways to deal with child support issues raised by these changes and family life. The possibly of unintended consequences has not been fully explored. No other state has passed such a bill. Thirty-two other states have some formula for dealing with shared parenting. Not one of them has adopted this simplistic approach. Mr. President, House Bill 1580 may leave more children in poverty. It will increase the cost to taxpayers. It creates an untested approach to child support and we cannot afford to pass it without giving all of these issues more time and gather more information about its impacts and alternatives to do it. I move that House Bill 1580 again, be tabled or defeated. Thank you.

### PARLIAMENTARY INQUIRY

SENATOR BRAGDON: I guess a parliamentary inquiry first. Did we just have a motion to table?

SENATOR GATSAS (In the Chair): No.

SENATOR BRAGDON: Okay. I do have a question for Senator Estabrook if she'd be willing to answer it. Thank you, Senator. And I ask you because of your experience and again, I apologize to my fellow Senators for asking a question to which I don't already know the answer, but... 'cause they tell you not to do that...this is not a trick.

SENATOR ESTABROOK: Oh, it's a real question. Okay.

SENATOR BRAGDON: Not a trap. We have various levels of public assistance available to people and to families based on their income level. One thing I don't know is, and I think, based on what Senator Roberge said, maybe the answer's yes. Is child support factored into a person's income in determining whether they qualify for various levels of assistance?

SENATOR ESTABROOK: My understanding it is.

SENATOR BRAGDON: And a follow up to that, Mr. President? Then it may be reasonable to expect then, that if people's income and support levels change, this is why maybe Senator Roberge was referring to increasing the financial impact to the state. Does the committee have any information on how much that might be?

SENATOR ESTABROOK: No, they don't, but, but, that is the concern. That, as the income drops, more people would qualify for TANF. There's also another effect that that would have on the state in terms of funding, is that the state has to have a certain maintenance of effort with TANF, and if that effect were to come into place and more families were to become eligible because of reduced support, we would not receive the support we do. There's more than just the impact to the family financially; there's also the impact to the state.

SENATOR BRAGDON: Okay. Thank you.

SENATOR HASSAN: Thank you, Mr. President. Of Senator Clegg please. Senator, under this proposed formula, under 1580, if one parent earns

\$500,000 and another parent earns \$50,000 but they both have the child 50 percent of the time, does the \$500,000 parent have to pay any child support?

SENATOR CLEGG: Why, I think she would still have to, yes, even though she was making \$500,000.

SENATOR HASSAN: And follow up if I may? Would you believe, Senator Clegg, that there are interpretations of 1580 which say that she wouldn't?

SENATOR CLEGG: Well, I believe that those who wear the orange badges have all kinds of ways of making people think bills say things that they believe would sink it, but I disagree with them.

SENATOR HASSAN: Follow up if I may? And would you believe that one of those interpretations that I just spoke of was my own reading of the bill? It didn't have anything to do with an orange badge.

SENATOR CLEGG: No orange badge. Good for you. Thank you.

SENATOR LARSEN: Thank you, Mr. President. I rise to oppose House Bill 1580. The Legislative Caucus for Young Children has written, "House Bill 1580 places a bounty on each child's head. Payments are prorated based on a parent's time with children. This offers multiple incentives to dispute parenting plans, increase litigation and invites cost determined care giving. Most importantly, it could potentially place some children in harm's way, physically as well as psychologically. House Bill 1580 may increase the number of families on public assistance by putting New Hampshire in the position of losing its performance based federal incentives for collecting child support. House Bill 1580 will increase the acrimony and litigation in divorce proceedings by creating an economic incentive to negotiate the child's time, to lower or raise the child support order. This, according to one family law attorney, could result in a financial bonanza for his colleagues, but it will only add to the animosity and conflict in the child's life. There was an important letter written to the editor by a Judith Tucker of Portsmouth, and she explained how the equation would work. Here's how it works: "When a parent of minor children divorce, the court computes the predetermined percentage of each parent's income, divides it by 365.25, then multiplies the result times the precise number of days the child is scheduled to reside with each parent for a year. This initial calculation determines each parent's individual responsibility for monetary child support. The lower amount is then subtracted from the higher amount, and whatever over is left, determines which parent is obliged to pay for child support and how much. Based on this mathematical contortion, it's possible the parents with equal or near equal residential responsibility, would be accountable for zero child support, even if the couple's children do not benefit from having the same standard of living in their parents' respective homes." We see before us a bill that could result in harm to children, less child support, some children receiving no child support at all. We see increased costs. Possibilities of families being put on public assistance. You had the right instincts when you voted to table this bill. And I know you know in your own heart of hearts, that your instincts were right. I urge you not to pass House Bill 1580 as amended or as unamended. I urge you to oppose House Bill 1580 when this next roll call comes before you.

SENATOR CLEGG: Thank you, Mr. Chairman. I mean, Mr. President. I hear people talk about let's not do this because it may cost us some

TANF money, the maintenance of effort. But I haven't heard anybody talk about the impoverished fathers who came in. The impoverished fathers who sent letter after letter. The wives of impoverished fathers who sent letter after letter. I got hundreds and hundreds of emails from the fathers and their new wives and their new family, who say, "Look, help us out, make it fair." The only problem the fathers had, is they don't have the money or the groups behind them to come and testify on their behalf. They actually have to take time out from work and come in and talk to us. The women's groups are very well-funded. They have plenty of money, and it's always all about they're going to lose a few bucks, we may have to pay a few bucks. You know, vote your conscience. But think of how you'd feel if you were a father and you had your kids four days a week, and you live in a one bedroom apartment because all your money goes to the mother as though she had the kids for seven. This just says let's make it equal, let's make it fair. This isn't the 1950s anymore. Women make as much as men; they're in professions the same as men, and it's time to treat everybody equally. Thank you.

SENATOR HASSAN: Thank you. Of Senator Clegg. First, are you aware of recent studies that indicate that women in New Hampshire and throughout the United States do not make as much money as men do?

SENATOR CLEGG: I'm aware that some studies say that. I'm aware that studies say that 73 percent of the women file for divorce. I'm aware of a study that says 53 percent of the domestic violence is women hitting men, not men hitting women. But I'm not sure if I agree with all those studies, so I don't bring them up.

SENATOR HASSAN: Well, and I'm not sure I'd agree with all the studies you just cited either. Thank you.

SENATOR CLEGG: Thank you.

SENATOR BRAGDON: Thank you. Move the question.

SENATOR GATSAS (In the Chair): One more speaker. Senator Letourneau.

SENATOR LETOURNEAU: Thank you, Mr. President. I just want to know that if this bill fails, what do I tell the twenty-five-year-old young man in my district who is working two jobs and has shared parenthood with his ex, has the child four days a week, and...four and a half days a week I should say...and he has to take time out of work in order to have that child for those four days a week, but he's a good father, and his ex is getting almost all of his money from one of his jobs, and she collects TANF, and she gets a state house, and she has a food stamps, and she has all these programs, and she has a brand new car that she makes payments on, I guess from the payment from this twenty-five-year-old? What do I tell him if this bill fails?

SENATOR BURLING: Senator Letourneau, would you believe that I think the answer to that question is, "Son, you thank God you have a child."

SENATOR LETOURNEAU: Excuse me? I find that insulting. I really do. I find that insulting. This young man is busting his chops.

**Recess.**

**Out of recess.**

**The question is on the motion of ought to pass.**

**A roll call was requested by Senator Clegg.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Johnson, Kenney, Boyce, Eaton, Clegg, Gatsas, Martel, Letourneau, Morse.**

**The following Senators voted No: Gallus, Burling, Green, Flanders, Odell, Roberge, Bragdon, Gottesman, Foster, Larsen, Barnes, Estabrook, Hassan, Fuller Clark.**

**Yeas: 9 – Nays: 14**

**Motion failed.**

Senator Burling moved inexpedient to legislate.

**The question is on the motion of inexpedient to legislate.**

**A roll call was requested by Senator Clegg.**

**Seconded by Senator Barnes.**

**Senator Clegg withdrew his motion for a roll call.**

**Senator Barnes withdrew his motion to second the roll call.**

**The question is on the motion of inexpedient to legislate.**

**A roll call was requested by Senator Larsen.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Burling, Green, Flanders, Odell, Roberge, Bragdon, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**The following Senators voted No: Johnson, Kenney, Boyce, Eaton, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**Yeas: 13 - Nays: 10**

**Adopted.**

**HB 1580 is inexpedient to legislate.**

**HB 76**, relative to distribution of state aid to charter schools. Finance Committee. Ought to pass with amendment, Vote 5-1. Senator Green for the committee.

**Senate Finance**

**May 2, 2006**

**2006-2126s**

**04/09**

### **Amendment to HB 76**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to distribution of state aid to charter schools; relative to establishing the 21<sup>st</sup> century scholars program and making an appropriation therefor; and relative to funding for charter schools.

Amend RSA 194-B:11, I(d) as inserted by section 1 of the bill by replacing it with the following:

***(d) The source of funds for payments under this section shall be from moneys specifically set aside for charter schools from the education trust fund established in RSA 198:39.***

Amend the bill by replacing all after section 4 with the following:

5 New Chapter; 21<sup>st</sup> Century Scholars Program. Amend RSA by inserting after chapter 193-H the following new chapter:

## CHAPTER 193-I

21<sup>ST</sup> CENTURY SCHOLARS PROGRAM

193-I:1 Definitions. In this chapter:

- I. "Board" means the 21<sup>st</sup> century scholars fund board.
- II. "Department" means the department of revenue administration.
- III. "Educational scholarships" means grants to pupils to cover all or part of the tuition and fees at a private qualified school or all or part of the tuition and fees at a public school outside the school district in which a pupil resides.
- IV. "Eligible pupil" means any pupil who is legally allowed to attend a public school in kindergarten through grade 12 and whose family income does not exceed 250 percent of the federal poverty income level.
- V. "Parent" includes a guardian, custodian, or other person with authority to act on behalf of the child.
- VI. "Program" means the 21<sup>st</sup> century scholars program.
- VII. "Qualified school" means a public or nonpublic school in our state that complies with all of the requirements of the program.

VIII. "21<sup>st</sup> century scholars fund" or "fund" means an entity that is determined by the Internal Revenue Service to be a tax exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code, as that section now exists or may hereafter be amended, established by the state to collect and administer funds that are to be used for the purpose of providing and managing the delivery of scholarships to eligible pupils.

193-I:2 Corporation Established. There is hereby established a body politic and corporate having a distinct legal existence separate from the state and not constituting a department of state government, to be known as the 21<sup>st</sup> century scholars fund corporation to carry out the provisions of this chapter. The corporation shall be a public instrumentality which shall perform public and essential governmental functions of the state as provided in this chapter. The corporation shall be a private nonprofit corporation and shall have all the powers necessary to carry out the purposes of this chapter, including, but not limited to, the power to receive and accept grants, loans, or advances of funds from any public or private agency and to receive and accept from any source, contributions of money, property, labor, or any other thing of value, to be held, used, and applied for the purposes of this chapter.

193-I:3 21<sup>st</sup> Century Scholars Fund Corporation; Board; Powers; Duties.

I. The powers of the corporation shall be vested in 12 members for 3-year terms of office as follows:

- (a) One member of the senate, appointed by the president of the senate.
- (b) One member of the house of representatives, appointed by the speaker of the house of representatives.
- (c) Two public members, appointed by the president of the senate.
- (d) Two public members, appointed by the speaker of the house of representatives.
- (e) Five public members, appointed by the governor, of which:
  - (1) Two shall represent the business community.
  - (2) Two shall represent the private school community.
  - (3) One shall be an at-large member.
- (f) The commissioner of the department of education, or designee.

II. The initial terms of office shall be as follows: the member in subparagraph I(e)(3) shall serve for one year; the member in subparagraph I(e)(1) shall serve for 2 years; and the members in subparagraphs I(c), I(d) and I(e)(2) shall serve for 3 years. The members in subparagraphs I(a)-(b) shall serve terms which are coterminous with their terms in office.

III. The members shall elect annually from among their number a chairperson and such officers as they may determine. A member shall hold office until a successor has been appointed and qualified. Members shall receive no salary for the performance of their duties under this chapter, but each member shall be reimbursed for reasonable expenses incurred in carrying out duties under this chapter. Any such expenses by board members shall have prior approval by 6 members of the board of directors before reimbursement. Legislative members shall receive mileage at the legislative rate when attending to the duties of the board. A member of the board of directors may be removed for cause by the official who appointed that member.

IV. There shall be no liability on the part of, and no cause of action shall arise against, any member of the board, or its employees or agents, for any action taken in the performance of their powers and duties under this chapter.

V. The board shall have complete fiscal control over the corporation and shall be responsible for all corporate operations.

VI. Board meetings shall be held at the call of the chairperson or when 3 members so request. Six members of the board shall constitute a quorum and the affirmative vote of 6 members shall be necessary for any action taken by the authority. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the corporation.

VII. The 21<sup>st</sup> century scholars fund corporation board shall:

(a) Notify the department of education of the board's intent to provide educational scholarships to pupils attending qualified schools, and in which public school districts those pupils reside.

(b) Provide a receipt for contributions to the organization by an individual taxpayer or corporate taxpayer for support of educational scholarships to the department of revenue administration and the taxpayer.

(c) Create and provide to the public a procedure for applying to the program.

(d) Consult appropriate professional organizations and establish standards providing educational scholarships.

(e) Develop and implement a plan to publicize the program and the procedures for enrollment in the program and to maintain public awareness of the corporation and the program.

(f) Secure staff necessary to properly administer the corporation. Staff costs shall be funded from private or public funds. The board shall determine the number of staff members necessary to administer the corporation.

(g) Ensure that at least 90 percent of its expenditures are for educational scholarships.

(h) Require applicants to provide a tax return, proof of current residence in New Hampshire, and proof that the pupil was continuously enrolled in a public school during the prior school year.

(i) Make every effort to make the program easily accessible and usable by the public.

(j) Inform parents of educational scholarship recipients of their acceptance into the program no later than 30 days after receiving the application.

(k) Ensure that first-time recipients of educational scholarships were continuously enrolled in a public school during the previous year.

(l) In the case of oversubscription to the program, conduct a random lottery among scholarship applicants to determine who shall receive an educational scholarship.

(m) Provide scholarships for pupils attending qualified schools for any purpose approved by the board including, but not limited to:

(1) \$3,500 for families that have a family income of 200 percent or less of the federal poverty income level upon the initial application to the program.

(2) \$2,500 for families that have a family income between 201 percent and 250 percent of the federal poverty income level upon initial application to the program.

(n) Ensure that educational scholarship payments are made out to the parents of the pupil and sent to the qualifying school of choice for endorsement by the parent to the school.

(o) Conduct criminal background checks on all employees of the corporation, and shall exclude from employment any people that might reasonably pose a threat to the safety of children or a risk to the appropriate use of contributed funds.

(p) Ensure that pupils receiving an educational scholarship take either the state tests or nationally recognized norm-referenced tests in math and language arts, or both, and ensure that the pupils' scores are provided to their parents.

VIII. The program shall not provide educational scholarships for pupils to attend any school with paid staff or board members, or relatives thereof, in common with the staff members of the fund.

IX. Provide an annual report, the first on or before January 1, 2007, to the governor, senate president, speaker of the house of representatives, and commissioner of the department of education on the development of the program. This report shall include information prepared by a certified public accountant regarding grants made in the previous calendar year and shall include:

(a) The total number and total dollar amount of contributions received during the previous calendar year; and

(b) The total number and total dollar amount of educational scholarships awarded during the previous calendar year, the total number and total dollar amount of educational scholarships awarded during the previous year to pupils who are in families that are in each subgroup of qualifying income for the federal poverty income level; and

(c) A detailed listing of administrative and marketing expenses.

#### 193-I:4 Responsibilities of the Parents.

I. In the first year of the program, parents shall apply for scholarships for their eligible pupils by August 31, 2006. In subsequent years, parents shall apply for scholarships for their eligible pupils by July 31.

II. Parents shall provide a copy of their income tax return, along with any application materials required by the program.

#### 193-I:5 Responsibilities of Qualified Schools.

I. All qualified schools shall:

(a) Operate in New Hampshire;

(b) Comply with 42 U.S.C. section 2000d et seq.; and

(c) Be approved by the state of New Hampshire.

II. All nonpublic schools shall have nonprofit status under the Internal Revenue Code in order to be qualified under this chapter.

III. Schools shall not refund or rebate any portion of the scholarship to the parent. Any refund for rebate for any portion of the scholarship shall be made to the fund.

IV. Pupils receiving an educational scholarship from the fund shall take either the statewide education improvement and assessment tests

pursuant to RSA 193-C, or a nationally recognized norm-referenced test in math and language arts, or both. Pupils' scores in such tests shall be provided to their parents.

V. No nonpublic school shall apply any funds received under this chapter to the cost of religious classes or other sectarian educational programs or services. The nonpublic school shall return any remaining payment to the pupil's resident school district.

193-I:6 Special Education Services. No pupil shall be considered an out-of-district placement for the purposes of receiving special education services while participating in the program. Participation in the program shall not affect a pupil's eligibility to receive special education services upon such pupil's return to the school district in which he or she resides

6 New Paragraph; School Money; Distribution Schedule of Equitable Education Grants. Amend RSA 198:42 by inserting after paragraph III the following new paragraph:

IV. For the fiscal year beginning July 1, 2006, and every fiscal year thereafter, the amount necessary to fund charter school tuition payments under RSA 194-B:11, I is hereby appropriated to the department from the education trust fund established under RSA 198:39. The governor is authorized to draw a warrant from the education trust fund to satisfy the state's obligation under this paragraph. Such warrant for payment shall be issued regardless of the balance of funds available in the education trust fund. If the balance in the education trust fund, after the issuance of any such warrant, is less than zero, the commissioner of the department of administrative services shall inform the fiscal committee and the governor and council of such balance. This reporting shall not in any way prohibit or delay the distribution of charter school tuition payments.

7 Charter Schools; Start-Up Grants. A charter school whose charter application was approved between September 1, 2005 and March 31, 2006 shall, upon application to the commissioner of the department of education (commissioner), receive a grant of \$100,000 to be used only for start-up costs and non-operational costs related to the initial opening of the charter school such as acquisition of classroom space, rent, cost of initial supplies, teacher salary and training, staffing costs, and utilities. Such funds shall not be used for tuition expenses. These grants shall be a charge against the education trust fund established in RSA 198:39, and the commissioner shall disburse the grants no later than 30 days from the date of the application. The commissioner shall develop a form suitable for the requirements of this section. The grants provided under this section shall not lapse.

8 Department of Education; Curriculum and Assessment. Amend PAU 06, 03, 02, 05, 01, for the 2007 fiscal year by inserting after class line 95 the following new class line:

96 Charter School Start-up Grants \* 400,000

\* THESE FUNDS SHALL NOT BE TRANSFERRED OR EXPENDED FOR ANY OTHER PURPOSE AND SHALL NOT LAPSE.

9 Department of Education; Curriculum and Assessment. Amend the 2007 fiscal year totals and source of funds for PAU 06, 03, 02, 05, 01 as follows:  
Strike out: FISCAL YEAR 2007

TOTAL	2,498,373
ESTIMATED SOURCE OF FUNDS FOR	
CURRICULUM AND ASSESSMENT	
GENERAL FUND	2,498,373
TOTAL	2,498,373



Insert in place thereof:

FISCAL YEAR 2007

TOTAL	2,898,373
ESTIMATED SOURCE OF FUNDS FOR	
CURRICULUM AND ASSESSMENT	
GENERAL FUND	2,498,373
EDUCATION REVENUE	400,000
TOTAL	2,898,373

10 Appropriation. Notwithstanding the introductory paragraph to RSA 198:39, I, there is hereby appropriated the sum of \$250,000, for the biennium ending June 30, 2007, from the education trust fund established in RSA 198:39 to the 21<sup>st</sup> century scholars fund established in RSA 193-I. Such sum shall be a charge against the education trust fund.

11 Effective Date.

I. Sections 8-10 of this act shall take effect on July 1, 2006.

II. The remainder of this act shall take effect upon its passage.

**2006-2126s**

### AMENDED ANALYSIS

This bill:

I. Requires the state to pay education aid directly to a charter school approved by the state board of education, and requires any member of a charter school board of trustees who also serves as an employee, agent, or board member of any for-profit entity with whom the charter school contracts for goods or services to make public disclosure of such fact and to recuse oneself from any business the charter school may have with the for-profit entity.

II. Establishes the 21<sup>st</sup> century scholars program, a non-profit, public and private partnership that will provide educational scholarships to eligible New Hampshire school children in kindergarten through grade 12 to attend a qualified school and appropriated \$250,000 from the education trust fund for the program.

III. Provides that moneys necessary to fund charter schools shall be appropriated from the education trust fund.

IV. Provides that the amount necessary to fund charter school tuition payments shall be appropriated from the education trust fund.

V. Provides for a one-time, \$100,000 start-up grant from the education trust fund for each charter school whose charter application was approved between September 1, 2005 and March 31, 2006, and amends the state operating budget for the 2007 fiscal year to provide funds for such grants.

SENATOR GREEN: Mr. Chairman, before I read this, I would like to call for a recess please. I have a need to have a recess.

SENATOR GOTTESMAN: ...to the end or are we breaking at some point for everyone?

SENATOR GATSAS (In the Chair): No, it's coming in. I've ordered food for everybody and we're going to work right through it.

SENATOR GOTTESMAN: Gotcha. Okay.

SENATOR BARNES: I hope there are fortune cookies. Maybe we'll get lucky.

SENATOR GREEN: Thank you, Mr. President. I move that House Bill 76 ought to pass with amendment. Local school districts should not have to make payments to charter schools from their adequacy dollars and

then have to wait two years to be reimbursed by the state. Since New Hampshire law states charter schools are public schools, they should be funded accordingly. Since the state provides for education as a common goal for the benefit of all, the public charter schools, in order to be successful, should be directly funded by the state, which this bill will do. This bill also clarifies that the source of funds for charter schools will be the education trust fund. It also appropriates \$400,000 in start-up grants for charter schools. These funds will be used for start-up costs only and not for operational costs, based on the language in the bill. In addition, the amendment includes language similar to Senate Bill 131, which this body has already passed, establishing a choice school certificate program which restores the Senate's position. This creates the 21<sup>st</sup> century scholar fund which is a non-profit, private, public partnership that will provide educational scholarships to eligible New Hampshire school children to attend a qualified school. The board is constructed in the manner that is very similar to the Healthy Kids Corporation. The Finance Committee asks your support for the motion of ought to pass with amendment. Thank you, Mr. President.

SENATOR HASSAN: I'd be happy to yield to Senator Estabrook. I rise in support of House Bill 76, but in opposition to the committee amendment. My district has a wonderful charter school - The Seacoast Charter School. It's doing great things. I believe House Bill 76 is an excellent bill to support it. When I called my constituent, who's also a member of the board of trustees, last night though to tell her about the amendment, she said, "Oh dear, then you can't vote for it, can you, because it's vouchers." This amendment holds charter schools hostage to a voucher program. And it saddens me to do that, because charter schools are something that I think all of us support. We want to take this step to make sure their funding stream is appropriate. As this body knows, a number of us believe vouchers are unconstitutional and bad public policy. And it is, I think, too bad that we are being asked to have to choose between one or the other on the same bill. Thank you.

**The question is on the adoption of the committee amendment.**

**A roll call was requested by Senator Larsen.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**The following Senators voted No: Burling, Odell, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**Yeas: 15 - Nays: 8**

**Amendment adopted.**

Senator Estabrook offered a floor amendment.

Sen. Burling, Dist. 5

Sen. Gottesman, Dist. 12

Sen. Foster, Dist. 13

Sen. Larsen, Dist. 15

Sen. Estabrook, Dist. 21

Sen. Hassan, Dist. 23

Sen. Fuller Clark, Dist. 24

May 4, 2006  
2006-2201s  
04/01

### Floor Amendment to HB 76

Amend the title of the bill by replacing it with the following:

AN ACT relative to distribution of state aid to charter schools.

Amend the bill by replacing all after the enacting clause with the following:

1 Charter and Open Enrollment Schools; Funding. Amend RSA 194-B:11, I to read as follows:

I. There shall be no tuition charge for any pupil attending an open enrollment or charter conversion school located in that pupil's resident district. Funding limitations in this chapter shall not be applicable to charter conversion or open enrollment schools located in a pupil's resident district. For any other charter or open enrollment school authorized by the school district, the pupil's resident district shall pay to such school an amount equal to not less than 80 percent of that district's average cost per pupil as determined by the department of education using the most recent available data as reported by the district to the department. For any charter school authorized by the state board of education, ~~the pupil's resident district shall pay tuition beginning July 1, 2005 and every fiscal year thereafter;~~ **and not approved by the local school district, the state shall pay education aid directly to the charter school for each pupil who is a resident of this state in attendance at such charter school** [in an amount per pupil determined] as follows:

(a) For the fiscal year beginning July 1, 2005, \$3,500 annual tuition.

(b) For every fiscal year thereafter, the department of education shall determine the tuition rate by adjusting for the average annual percentage rate of inflation based on the northeast region consumer price index for all urban consumers as published by the Bureau of Labor Statistics, United States Department of Labor. The average shall be based on the 4 calendar years ending 18 months before the beginning of the fiscal year for which the tuition rate is to be determined.

(c) Tuition amounts shall be prorated on a per diem basis for pupils attending a school for less than a full school year. To the extent permitted by law, tuition payments shall coincide with the distribution of equitable education grants under RSA 198:42 or on such other terms as are mutually acceptable.

**(d) The source of funds for payments under this section shall be from moneys specifically set aside for charter schools from the education trust fund established in RSA 198:39.**

2 State Aid; Education Trust Fund. Amend the introductory paragraph to RSA 198:39, I to read as follows:

I. The state treasurer shall establish an education trust fund in the treasury. Moneys in such fund shall not be used for any purpose other than to distribute adequate education grants to municipalities' school districts **and to approved charter schools** pursuant to RSA 198:42, and to provide low and moderate income homeowners property tax relief under RSA 198:56-198:61. The state treasurer shall deposit into this fund immediately upon receipt:

3 New Paragraph; Charter and Open Enrollment Schools; Board of Trustees. Amend RSA 194-B:5 by inserting after paragraph VI the following new paragraph:

VII. Any member of a charter school board of trustees who also serves as an employee, agent, or board member of any for-profit entity with whom the charter school contracts for goods or services shall make public disclosure of such fact and shall recuse oneself from any business the charter school may have with the for-profit entity. Any contract executed in violation of this paragraph shall be voidable at the discretion of the commissioner of the department of education. A member of a charter school board of trustees who executes a contract in violation of this paragraph may be held personally liable to the charter school for any damages caused by such contract.

4 Repeal. RSA 194-B:11, IX, relative to the issuance of reimbursement anticipation notes to charter schools, is repealed.

5 Effective Date. This act shall take effect July 1, 2006.

## 2006-2201s

### AMENDED ANALYSIS

This bill requires the state to pay education aid directly to a charter school approved by the state board of education and requires any member of a charter school board of trustees who also serves as an employee, agent, or board member of any for-profit entity with whom the charter school contracts for goods or services to make public disclosure of such fact and to recuse oneself from any business the charter school may have with the for-profit entity.

SENATOR ESTABROOK: Thank you, Mr. President. I move floor amendment 2201s. I can speak to it as it's being passed out.

SENATOR GATSAS (In the Chair): 2201 has been proposed and, Senator Estabrook, if you would speak to it as it's being passed out. Thank you.

SENATOR ESTABROOK: Thank you, Mr. President. This amendment is to allow those of us, as Senator Hassan said, who believe the intent of HB 76 was an excellent intent and want to support direct state funding of charter schools. This amendment will allow us to do that without, as she said, burdening the bill with the school voucher program that has been multiply, multiple times rejected by the House, including today and, at one point, indefinitely postponed by the House. So the prospect, I understand the bill would go to Committee of Conference, but the prospect of the House agreeing to the voucher portion of this bill may put it in danger. And I, as one, do not want this bill to be in danger. I think it's very important that we make this change and that's why I ask your support of amendment 2201s.

SENATOR GREEN: Senator, this is the first time I've seen this amendment, I didn't know it was coming, so I just want to make sure I understand what you're saying here. Is there any start-up money in this amendment?

SENATOR ESTABROOK: No, there isn't. This is the bill as it came to us except that we have changed the effective date.

SENATOR GREEN: Does this take the place entirely of the existing bill?

SENATOR ESTABROOK: Yes.

SENATOR GREEN: So the only amount of money in here is \$3,500 annual tuition, as I see it?

SENATOR ESTABROOK: Yes.

SENATOR GREEN: Is that money coming out of the **TAPE CHANGE**.

SENATOR LARSEN: The language in this bill accomplishes what all of those people in the charter school programs and, in fact, many people on school boards across the state would like, which is that it clarifies that the Education Trust Fund will pay directly into the charter school for each pupil. It makes sense to do this. It does not make sense to create a voucher program such as is proposed in the 21<sup>st</sup> Century Scholars Voucher Program. It makes no sense for us to put money into a voucher program. It makes sense for us to clarify how students who are in charter schools, in public charter schools in New Hampshire, are paid. So this is a good solid plan, and it resolves a problem that we all know exists in this state. By adding the amendment to support a voucher program, you're creating problems for the charter schools of this state. And a vote against this floor amendment is a vote to cause problems in conference committees, and problems in the future, in terms of our going to court on the constitutionality of voucher programs as well.

SENATOR GREEN: Yes. Of Senator Larsen, please. I understand, Senator Larsen, your disagreement with vouchers, and you've been consistent. However, what I have a hard time understanding in this amendment, that you do not continue the \$400,000 start-up for charter schools if you are a strong supporter of charter schools. How do I reconcile that in my thinking?

SENATOR LARSEN: My recollection, it was \$100,000 for start-ups in the amendment.

SENATOR GREEN: It is \$400,000 for four schools and \$100,000 each.

SENATOR LARSEN: My belief is we discussed that in the budget process, and in fact, there was a chance then, when we looked at what we'd done in previous years. In previous years, we put in \$300,000 for charter school start-ups. When we didn't do it in the budget process this last time, I understood that it was not a priority. So I understood that it would not be something which we need to add now.

SENATOR GREEN: Yes, thank you. Would you be surprised in all my work with charter schools that that was a major priority they had along with tuition?

SENATOR LARSEN: Well, I think we have the biggest responsibility to fund the charter schools that we have and we can encourage start-ups, and the start-ups are only for the initial time period. But it's my understanding that the most important thing is to get the money directly to those charter schools so that they don't have to fight with their school boards.

SENATOR GREEN: Follow up question? I would like you to know, so there won't be any questions. Would you believe that they really felt strongly about that start-up money? Those four schools **TAPE INAUDIBLE** will start in the fall?

SENATOR LARSEN: I haven't heard from them, so...

SENATOR GREEN: I have. I have spent many hours with them and that is very critical for them to be successful. Thank you.

SENATOR LARSEN: And if I can...if passing this would mean that we add the language for \$100,000 maybe we ought to consider that, but \$400,000.

SENATOR GREEN: Thank you.

SENATOR HASSAN: Question of Senator Green. Senator Green, if we prepared an amendment that added the \$400,000 to this floor amendment so that we would have a direct payment to charter schools and \$400,000, would you vote for it?

SENATOR GREEN: I will vote for the bill as it's currently coming out of committee, the total bill, which includes the \$400,000.

SENATOR HASSAN: Follow up? So your answer is that, unless the bill has vouchers on it, you won't give the charter schools that money. Is that correct?

SENATOR GREEN: I am in support of the bill as I reported it out ought to pass with amendment.

SENATOR ESTABROOK: Thank you. Of Senator Larsen. Senator Larsen, is it true that the state has received a considerable amount of money far in excess of \$400,000 from the federal government for start-up of charter schools?

SENATOR LARSEN: It's absolutely true. And when last I talked to the person who deals with charter schools at the Department of Ed, there's \$3 million remaining, which they hope they can distribute.

SENATOR ESTABROOK: Thank you.

SENATOR BOYCE: Yes, and actually, I'd like to ask a question of the Chair of Education if he would yield? I know he hasn't spoken, but...could I ask you a question?

SENATOR GATSAS (In the Chair): Senator Bragdon, do you yield to a question?

SENATOR BRAGDON: Sure.

SENATOR BOYCE: It's a soft ball.

SENATOR BRAGDON: Warily.

SENATOR BOYCE: This amendment would strip out the 21<sup>st</sup> Century...21<sup>st</sup> Century Scholarship Fund and I know that you know more about this than I do. But I think I understand that these tuition scholarships could be used for any public school that would accept a student as well as private schools and so forth. So it could be used at a public school?

SENATOR BRAGDON: My understanding is those could be used at any public or private school in the state.

SENATOR BOYCE: Follow up? And since a charter school is a public school, if a charter school wanted to accept students under the 21<sup>st</sup> Century Scholars Program, they could do so, could then not?

SENATOR BRAGDON: That I'm not sure of, Senator Boyce. I'm not sure if there's an exclusion on charter schools. So I'm not the one to ask that question.

SENATOR BOYCE: Okay.

SENATOR BRAGDON: So sorry.

SENATOR BOYCE: I thought it was a soft ball.

SENATOR BRAGDON: I'm not as wise as you thought.

SENATOR FULLER CLARK: Thank you very much, Mr. President. I just rise to support the amendment and to say that, when I was in the House, I was a co-sponsor of the original legislation to make it possible to establish charter schools in New Hampshire. And I believe that this

is an important step forward and that we should support this amendment so that we make sure that those charter schools have direct access to the dollars that we need, and we don't find ourselves in the situation that we did with the town of Franklin where the charter school there had to close because of the conflict between the public school and a charter school. So I urge everybody to make sure that, at the very least, that we provide these fundamental dollars for existing charter schools of which there are many across the state.

SENATOR MORSE: Thank you, Mr. President. I'd just like to make it clear that a vote against this amendment will support the vote that we just had. And, in answer to Senator Boyce's question, all public and non-profit private schools approved by the state are eligible to participate.

SENATOR ESTABROOK: Thank you. Senator Morse. Senator Morse, are charter schools allowed to charge tuition?

SENATOR MORSE: I don't know the answer to that.

SENATOR ESTABROOK: Thank you.

**The question is on adoption of the floor amendment.**

**A roll call was requested by Senator Estabrook.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Burling, Odell, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**The following Senators voted No: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**Yeas: 8 - Nays: 15**

**Floor amendment failed.**

SENATOR FOSTER: I just want to rise to indicate that I will be opposing this bill as it's now been amended. Senator Morse and I had colloquy yesterday about priorities and the budget and this amendment is not in my priorities. I live in Nashua, as you all know, and I'm watching in my local newspaper as three of our largest communities are struggling to get their school budgets through, and teachers are being pink slipped, and situations are happening in the town of Merrimack and Manchester, and it's quite tumultuous right now. And I find it amazing that this is where we are going to be spending our education dollars. I will oppose this bill. Thank you, Mr. President.

**The question is on the adoption of the bill as amended.**

**A roll call was requested by Senator Bragdon.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**The following Senators voted No: Burling, Odell, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**Yeas: 15 - Nays: 8**

**Adopted.**

**Ordered to third reading.**

**Recess.****Out of recess.**

**HB 638-FN**, relative to county and state financing of nursing home services. Finance Committee. Ought to pass with amendment, Vote 4-0. Senator Morse for the committee.

**Senate Finance****May 2, 2006****2006-2135s****10/04****Amendment to HB 638-FN**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to county liability for payment of nursing home facility costs, long term care financing, and relative to the county-state finance commission.

Amend the bill by replacing all after the enacting clause with the following:

1 Certificate of Need; Nursing Home Beds; Moratorium Extended. Amend RSA 151-C:4, III(a) to read as follows:

III.(a) No certificate of need shall be granted by the board for any nursing home, skilled nursing facility, intermediate care facility or rehabilitation facility from the effective date of chapter 310, laws of 1995, department of health and human services reorganization act, through the period ending [~~December 31, 2006~~] **June 30, 2009**, except that a certificate of need shall be issued for replacement or renovation of existing beds as necessary to meet life safety code requirements or to remedy deficiencies noted in a licensing inspection pursuant to RSA 151 or state survey and certification process pursuant to titles XVIII and XIX of the Social Security Act.

2 Rehabilitation Beds. Amend 2004, 260:27 to read as follows:

260:27 Health Services Planning and Review Board; Rehabilitation Beds and Services. Through the period ending [~~December 31, 2006~~] **June 30, 2009** unless sooner authorized by the general court, the health services planning and review board shall not authorize changes regarding the licensure or certification of any rehabilitation beds in any type of facility, shall not authorize the addition of any rehabilitation beds in any type of facility, and shall not grant any certificate of need related to the board's administrative standards for comprehensive physical rehabilitation services. This section shall not prohibit the voluntary transfer of rehabilitation beds between 2 licensed health care facilities; provided, that any such transaction does not result in an increase in the number of any type of rehabilitation beds in the state.

3 Reference Changed. Amend RSA 151-E:6-b to read as follows:

151-E:6-b Memorandum of Agreement. The department of health and human services shall establish, by means of a memorandum of agreement with the New Hampshire Association of Counties, a mechanism for the receipt of input from the Association of Counties regarding the type, cost, utilization, and procedures relative to payments which the counties are obligated to make pursuant to RSA [~~167:18-b~~] **167:18-a**. The memorandum of agreement shall be reviewed annually and amended as may be determined to be necessary by the parties.

4 Reference Changed. Amend RSA 151-E:15, IV to read as follows:

IV. Notwithstanding the provisions of RSA [~~167:18-b, f~~] **167:18-a**, no county shall be required to make any contribution to the distribution under this section.



5 County Reimbursements; Limitation on Payments. RSA 167:18-a is repealed and reenacted to read as follows:

167:18-a County Reimbursement of Funds; Limitations on Payments.

I. All expenditures in carrying out the purposes of this chapter and RSA 161 relative to recipients of old age assistance and aid to the permanently and totally disabled shall in the first instance be made by the state, but each county shall make monthly payments to the state for the amounts due under this section within 45 days from notice thereof.

(a) Counties shall reimburse the state for expenditures for recipients of old age assistance or aid to the permanently and totally disabled for whom such county is liable to the extent of 50 percent of state supplemental financial assistance.

(b) Counties shall reimburse the state for expenditures for recipients for whom such county is liable who are eligible for nursing home care and are receiving services from a New Hampshire licensed nursing home, or in another New Hampshire setting as an alternative to a nursing home placement and are supported under the Medicaid home and community-based care waiver for the elderly and chronically ill, as such waiver may be amended from time to time, to the extent of 60 percent of the non-federal share of such expenditures.

(c) Counties shall not be liable for Medicaid recipients in state institutions and intermediate care facilities for the mentally retarded (ICF-MR) approved by the department of health and human services and servicing developmentally impaired persons.

II. The total reimbursements by all counties made pursuant to this section and RSA 167:18-f shall not exceed the amounts set forth below for the state fiscal years 2007-2009:

(a) State fiscal year 2007	\$78,000,000.
(b) State fiscal year 2008	\$81,000,000.
(c) State fiscal year 2009	\$84,000,000.

III.(a) Any shortfall between the state audited Medicaid allowances incurred by the state's county operated ICF nursing homes and amounts otherwise reimbursed by federal 50 percent Medicaid matching funds or other income, shall be certified as a public expenditure and be eligible for additional federal funding match.

(b) The department of health and human services shall seek federal Medicaid assistance match for any state audited county nursing home Medicaid expense which is not fully reimbursed through rates. Any revenue realized through such a match shall be paid to the nursing homes which incurred the unreimbursed expense, provided, however, that no state general funds are expended directly or indirectly for this purpose.

6 Delinquent Payments. Amend RSA 167:18-e to read as follows:

167:18-e Delinquent Payments. Delinquent payments due under RSA 167:18-a[, 167:18-b] and 167:18-f, with interest at the rate of 12 percentum per annum, may be recovered by action in a court of competent jurisdiction against the political subdivision liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such subdivision by any department or agency of the state.

7 County Nursing Homes; Local Medical Assistance Contribution. Amend RSA 167:18-f to read as follows:

167:18-f Local Medical Assistance Contribution. In addition to any other reimbursement required by law, each county shall, within 60 days from notice thereof, reimburse the public assistance fund at the rate of [\$27] \$6 per month for each recipient of old age assistance and [\$52] \$23 per month for each recipient of aid to the permanently and totally disabled

for whom the county would be liable under the provisions of RSA 166, except that no reimbursement shall be required for any recipient for whom the county has an obligation under RSA ~~[167:18-b]~~ **167:18-a**.

8 Appropriation; Health and Human Services. The sum of \$4,650,061 is hereby appropriated to the department of health and human services for the biennium ending June 30, 2007 for the purposes of this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

9 County Credit for Contributions. Any county reimbursement under RSA 167:18-f made from July 1, 2005 until June 30, 2006 which exceeds the rate for reimbursement provided in section 7 of this act shall be credited to the counties for the year ending June 30, 2006 for fulfilling the local medical assistance contribution.

10 Medical Parole. Amend RSA 651-A:10-a, VII to read as follows:

VII. Notwithstanding RSA ~~[167:18-b]~~ **167:18-a**, the state shall be responsible for all medicaid costs incurred, net of federal reimbursement, for any inmate granted medical parole under this section, until the earliest date on which parole could have been granted had the inmate not been granted medical parole.

11 County-State Long Term Care Commission. Amend RSA 28-B to read as follows:

## CHAPTER 28-B

### COUNTY-STATE ~~[FINANCE]~~ **LONG TERM CARE** COMMISSION

28-B:1 Commission Established. There is hereby established the county-state ~~[finance]~~ **long term care** commission which shall consist of the following members:

I. The commissioner of the department of health and human services.

II. The director of the division of elderly and adult services in the department of health and human services.

III. ~~[Three]~~ **Two** members appointed by the commissioner of the department of health and human services, and one member appointed by the governor and council, who shall serve 2-year terms, provided that the initial terms of 2 such members shall be for one year.

IV. ~~[Six]~~ **Four** members representing county government, ~~[all]~~ appointed by the **commissioner's council of the** New Hampshire Association of Counties, who shall serve 2-year terms, ~~[provided that the initial terms of 3 such members shall be for one year.]~~ **2 of whom shall represent counties with population of more than 100,000 and 2 of whom shall represent counties with population of less than 100,000.**

V. **Four members of the general court, with 2 house of representatives members, one of whom shall be a member of the house finance committee appointed by the speaker of the house of representatives, and 2 senate members, one of whom shall be a member of the senate finance committee, appointed by the president of the senate. General court members shall serve for their elected term of office.**

28-B:2 Chairperson; Meetings. The commission shall elect a chairperson from among its members, provided that the chair shall alternate between a state and a county representative in a manner determined by the commission. The commission shall meet at least quarterly and shall adopt rules for its procedures. **The department of health and human services shall provide staff assistance in support of the commission.**

28-B:3 Duties of the Commission. The county-state ~~[finance]~~ **long term care** commission shall oversee the financial relationship and the devel-

opment of policy associated with programs for which the county and state governments share funding obligations. The commission shall have the following responsibilities:

I. Review and ~~[provide recommendations about]~~ **approve** the state's long-term care medicaid plan under RSA 151-E and related provisions which address programs for which counties have financial obligation prior to submission of such plans to the federal medicaid agency.

II. Review and provide recommendations regarding department of health and human services rate setting and adjustments ~~[including, but not limited to, those for]~~ **related to** long-term care services for elderly and adult clients by the division of elderly and adult services, court-ordered and volunteer services by the division for children, youth, and families, and the division of juvenile justice services, prior to any rate setting or adjustments.

III. Review and provide recommendations for refinement of county billing systems for all payments from the counties to the state.

IV. Pursue and evaluate funding options.

~~[V. Develop a process for managing individual county payment limits under RSA 167:18-b, IV. In no event shall the individual county payment limit reduce or alter the total county obligation under RSA 167:18-b, IV.]~~

12 Long-Term Care; Program Management. Amend RSA 151-E:11 to read as follows:

151-E:11 Program Management and Cost Controls.

I. The department shall designate in its operating budget requests specific class lines for nursing facility, mid-level, and home-based care provided for in this chapter. These class lines shall reflect, and the requesting documentation shall include, the anticipated number of persons to receive services. The department shall not increase expenditures in approved budgets for these class lines or the number of persons to receive mid-level or home care services without the **final** approval of the legislative fiscal committee, and the prior ~~[review]~~ **approval** of the county-state ~~[finance]~~ **long term care** commission. The medicaid rates paid for nursing facility services, mid-level care services, and home and community-based care services shall not be reduced below those levels in effect on the last day of the previous biennium. No transfers may be made from the nursing facility medicaid quality incentive program and all funding derived from that program shall be paid to nursing facilities.

II. For the fiscal year beginning July 1, 2003, and each fiscal year thereafter the average annual cost for the provision of services to persons in the mid-level of care shall not exceed 60 percent of the average annual cost for the provision of services in a nursing facility. The average annual cost for the provision of services in home-based care shall not exceed 50 percent of the average annual cost for the provision of services to persons in a nursing facility. Average annual costs shall be the net medicaid costs exclusive of provider payments. No person whose costs would be in excess of 80 percent of the average annual cost for the provision of services to a person in a nursing facility shall be approved for home-based or mid-level services without the prior approval of the commissioner of health and human services. The department shall provide a report semi-annually on the utilization of non-nursing home services to the county-state ~~[finance]~~ **long term care** commission and the legislative fiscal committee.

13 Rulemaking; Public Assistance; County-State Long-Term Care Commission. Amend RSA 167:3-c, XIII to read as follows:

XIII. The administration of the payment of funds for persons eligible to receive nursing home services. Prior to the submission of proposed rules under RSA 541-A, such rules shall be submitted for review by the county-state ~~finance~~ **long term care** commission under RSA 28-B.

14 Repeal. The following are repealed:

I. RSA 167:18-b, relative to county reimbursement for nursing home services.

II. RSA 167:20, relative to establishing the public assistance fund.

III. 1998, 388:16, I and II, relative to the repeal of RSA 167:18-b and 18-f.

IV. 1998, 388:17, II, as amended by 2003, 223:8, 2004, 260:9, and 2005, 177:10 relative to the effective date of the repeal of RSA 167:18-b and 18-f.

15 Prospective Repeal; July 1, 2009. RSA 167:18-a, relative to county reimbursement of funds, is repealed.

16 Effective Date.

I. Section 7 of this act shall take effect July 1, 2005 at 12:01 a.m.

II. Sections 8 and 9 of this act shall take effect June 30, 2006.

III. Section 15 of this act shall take effect July 1, 2009.

IV. The remainder of this act shall take effect July 1, 2006.

**2006-2135s**

#### AMENDED ANALYSIS

This bill:

I. Establishes the liability of counties for nursing home costs and long term care costs.

II. Removes the increase in county payments for old age assistance and aid to the permanently and totally disabled.

III. Extends the moratoriums on nursing home and rehabilitation beds.

IV. Renames the county-state finance commission as the long term care commission, increases its membership, and changes the duties of the commission.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 638 ought to pass with amendment. I would first like to thank Representative King for all his hard work on the issue during this session and over the years. This bill deals with county-state financial relationship. The counties have expressed a variety of concerns on this subject ever since the overhaul of the relationship in the 1990s. The intent of this bill is to address efficiency. The bill extends the moratorium on nursing home beds, which was passed in the House version. It also adds in the County Long Term Care Commission to oversee the financial relationship. Additionally, caps have been calculated that will serve as a protection for the counties. The Finance Committee asks for your support on the motion of ought to pass.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

**HB 678-FN**, relative to the insurance premium tax. Finance Committee. Ought to pass with amendment, Vote 6-0. Senator Clegg for the committee.

Sen. Gatsas, Dist. 16

**May 2, 2006**

**2006-2116s**

**03/10**

**Amendment to HB 678-FN**

Amend the bill by deleting section 2 and renumbering the original sections 3-4 to read as 2-3.

Amend the bill by replacing all after section 2 with the following:

3 Insurance Premium Tax; Collection. Amend RSA 400-A:32, II to read as follows:

**II.(a) For the calendar year ending December 31, 2006**, on or before March 15, June 15, September 15, and December 15 ~~[of each year]~~, every authorized insurer required to pay a tax in accordance with RSA 400-A:32, I shall pay to the insurance commissioner an amount equal to 1/4 of the previous calendar year's tax paid pursuant to said paragraph; provided, however, any authorized insurer having an estimated liability of \$100 or less for each quarter shall make payment in full on March 15. These payments shall be considered as a partial payment of the tax upon the business done in the state during the calendar year in which the payment was received.

**(b) For the calendar year ending December 31, 2007, and for every year thereafter, on or before March 15 of each year every authorized insurer required to pay a tax in accordance with RSA 400-A:32, I shall make payment in full to the insurance commissioner of an amount equal to 100 percent of the previous calendar year's taxes paid pursuant to said paragraph. The payments shall be considered as a partial payment of the tax upon the business done in the state during the calendar year in which the payment was received.**

4 Insurer Retention Plan; Reporting.

I. The insurance commissioner and the commissioner of the department of resources and economic development shall mutually develop and implement a comprehensive plan to retain domestic insurers and recruit foreign insurers to redomesticate in New Hampshire with the goal of retaining and creating jobs and the economic activity associated therewith. The plan shall be jointly filed with the fiscal committee of the general court on or before September 30, 2006.

II. The insurance commissioner and the commissioner of the department of resources and economic development shall jointly file a report detailing the results of the implementation of their filed plan, including information on the number of redomestications and new jobs associated therewith with the fiscal committee of the general court on or before July 1, 2007, and every month thereafter, until such time as the fiscal committee shall certify that there is no longer a need to file such report.

5 Effective Date. This act shall take effect 60 days after its passage.

**2006-2116s**

**AMENDED ANALYSIS**

This bill:

I. Reduces the insurance premium tax.

II. Changes insurance premium tax payments from quarterly to annual.

III. Requires development and implementation of an insurer retention plan.

SENATOR CLEGG: Thank you, Mr. President. I move House Bill 678 ought to pass with amendment. This bill passed the Senate with a recommendation from Banks and Insurance Committee to reduce the insurance premium tax in an effort to retain companies that are presently domesticated in New Hampshire, and to attract other companies to also come to New Hampshire. The bill as amended by the Finance Committee continues that intent. It changes the insurance premium tax payments from quarterly to annually. The accelerated payment would enable the state to generate additional income through interest earned and enhance revenues. It also requires development and implementation of an insurer retention plan. Since this is truly about job creation, it will require a report detailing the implementation of the plan to the Fiscal Committee to ensure that the plan is successful. The premium tax on non-health insurers would be reduced over a four and a half year period from 2 percent to 1 percent. The Finance Committee asks for your support of ought to pass with amendment.

SENATOR EATON: Thank you. I appreciate all the hard work that many, many people put into this bill to make it work. I think, as many of you know, we have two very large insurance companies in Keene for a national base. National Grange Mutual Insurance and Peerless Insurance. We've worried that Peerless might pick up for a number of years and go out. It had nothing to do with this bill; it strictly had to do with the insurance tax. Peerless' premium tax, just for their two affiliates, pay \$2,437,000. Liberty Mutual Group, just in New Hampshire, their premium tax which includes Peerless' amount above, is \$5.3 million. If we were to lose Peerless in our area, five hundred and twenty-five employees would be lost and \$31 million worth of payroll would be gone. So we appreciate, again, all the efforts that have gone into this bill.

SENATOR GOTTESMAN: Senator Eaton if I may? Senator Eaton, I have heard the presentation and I've seen the numbers, and this may be the way to go. But I have not heard yet how the Finance Committee actually reviewed this and was able establish numbers that support the losses that we would have in light of the fact that we are going to be cutting revenue as a result of a reduction in the premium tax. What I've heard is that it's going to be all supported with new jobs and new business enterprise tax and business profits tax. Have you satisfied yourself or could you share with us, what you've seen that will help us support those losses that we're going to see?

SENATOR EATON: The back up has been by the Insurance Commissioner, who has said many companies have wanted to do, domesticate to New Hampshire because of our other tax benefits here, have not because of the one...the two percent. Also, companies that here...are here and do business in other states, if their premium tax is at one percent, they still have to pay our two percent to that state. That's how we will bring in some more funds because businesses that do more business in New Hampshire will only have to pay the one percent also. And the insurance companies do feel that they will have other companies moving in. Commissioner Sevigny is very much behind it. And I think that you'll see, with the number of companies coming in or the number of people coming in, by the figures that I just showed you of Peerless alone, that will make up the difference.

SENATOR GOTTESMAN: Follow up question? I seem to have read something in the last few days that Commissioner Blatsos took a look at this and was not particularly supportive of it. Do you have any idea why he wouldn't have been supportive of the numbers as they were presented?

SENATOR EATON: I did not hear that. I cannot answer that for you. I was not in on the Finance Committee hearings when he spoke.

SENATOR GOTTESMAN: Okay. Thank you.

SENATOR FLANDERS: Thank you, Mr. President. Just briefly. You don't have in front of you a hearing report. As far as policy is concerned, what we heard basically was DRED... somebody came in from DRED, I don't remember his name, I'm sorry, who testified that they were talking to a company that would consider coming to New Hampshire if we did something with the premium tax. We had testimony that there's a company in Maine that might seriously consider coming to New Hampshire if we did this. A little bit of history, and I can't prove anything I'm saying, but I just... We've lost two big insurance companies out of New Hampshire in the last few years, one being New Hampshire Insurance Company where I started my career. And I'm not going to say they left because of the premium tax, but that's sixteen hundred jobs. Jobs **TAPE INAUDIBLE**. And I've been told that one of their reasons for leaving is the premium tax. I'm not going to get into the financial end of it because that's what we did in policy, is we looked at this. We thought it was a good policy. We thought it was a good idea, and we turned it over to Finance. But that's a little bit of the history and some of the testimony that we've heard. Thank you.

**The question is on adoption of the committee amendment.**

**A roll call was requested by Senator Fuller Clark.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: None.**

**Yeas: 23 - Nays: 0**

**Amendment adopted.**

SENATOR LARSEN: I simply have to rise to say that there were some concerns despite the strength of the vote on that amendment. There are and continue to be some concerns in our changing the premium tax. We heard from our own commissioner of...Department of Resources that it is in fact a wash, in terms of revenues in and revenues out. And there is no guarantee of additional jobs. So I think it is something which I hope all of us will commit to watching its process, and if it in fact succeeds, that we applaud it, and if we see problems with it, that we address at that time. Thank you.

SENATOR CLEGG: Mr. President, if the Senator wishes and there's great concern, I'd be willing to reconsider so that the Senators could change their vote.

SENATOR FLANDERS: Thank you, Mr. President. Very briefly to Senator Larsen. We discussed that in policy, and we agreed. And we talked to

the insurance companies, that we will keep an eye on it. And if it doesn't work, we can stop it immediately. So that was one of the deals and some of the things we talked about in committee. Thank you.

SENATOR MORSE: I'd just like to add, it goes in increments and before the Senator from Ways and Means took off on his flight, he had left a list that the Senate President and I looked over that was part of this amendment. I can assure you that if there's any concerns, we can react, because it goes in, in quarter percent increments. So, we'll be fine.

**The question is on the adoption of the bill as amended.**

**A roll call was requested by Senator Clegg.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: None.**

**Yeas: 23 - Nays: 0**

**Adopted.**

**Ordered to third reading.**

**HB 1331**, relative to the New Hampshire Temporary Assistance to Needy Families (TANF) program. Finance Committee. Ought to pass with amendment, Vote 4-2. Senator Morse for the committee.

**Senate Finance**

**May 2, 2006**

**2006-2157s**

**04/10**

### **Amendment to HB 1331**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to the New Hampshire Temporary Assistance to Needy Families (TANF) program and making an appropriation therefor.

Amend the bill by replacing all after the enacting clause with the following:

1 New Hampshire Employment Program and Family Assistance Program; Statement of Purpose. Amend RSA 167:77 to read as follows:  
167:77 Statement of Purpose.

I. The purpose of this subdivision is to reform welfare through the vehicle made available by the federal government [~~whether through block grants or by a federal waiver. If a waiver is necessary, it is the intent of the general court that the commissioner of the department of health and human services request such a waiver so that this subdivision may be implemented~~]. To the extent permitted by federal law, it is the intent of the general court to [~~replace the aid to families with dependent children program with~~] **operate the Temporary Assistance to Needy Families (TANF) program through 2 subprograms:**

(a) The New Hampshire employment program which shall provide financial assistance for families with dependent children when the children are cared for by a parent or relative who is receiving assistance and is considered to be able-bodied for employment.

(b) The family assistance program which shall provide financial assistance for families with dependent children when the parent or other



relative is considered unable to work due to a physical or mental disability or the children are cared for by a relative other than a parent who is not receiving assistance.

II. ~~[Such replacement establishes]~~ The New Hampshire employment program and the family assistance program ~~[as the cash]~~ **are the financial** assistance programs upon which Medicaid and Food Stamps are automatically granted ~~[in the same relationship as under the AFDC program].~~

III. ~~[A waiver or a block grant may be phased in, at the discretion of the commissioner. If there is a phasing-in then the existing AFDC/JOBS program may be maintained in all or part of the state at the discretion of the commissioner. To the extent that some portions of the state are covered by the AFDC/JOBS program, the statutes and rules governing that program shall apply and be in effect.]~~ Notwithstanding any other laws to the contrary, the New Hampshire employment program and family assistance program shall be covered by this subdivision and the rules adopted under the authority of this section. All statutory provisions within RSA 161 and 167 which are not inconsistent with the provisions of this subdivision shall remain in full force and effect and shall apply to the New Hampshire employment program and the family assistance program.

IV. The New Hampshire employment program shall promote economic independence and help maintain and strengthen family life by enabling able-bodied persons with dependent children to assume responsibility for their families through the dignity of work. Work shall be promoted by:

(a) Offering employment services, support services, and transitional financial assistance with the expectation that participants move quickly towards employment.

(b) Developing long-term employment skills that lead to self-sufficiency.

(c) Recognizing the equal responsibility of both parents to provide economic support for their children.

V. The goals of the New Hampshire employment program shall be to:

(a) Eliminate or reduce the harmful effects of poverty on families and children by fostering employment and opportunity as a means to economic independence.

(b) Assist participants to gain employment as rapidly as possible, given due consideration to individual circumstances, labor market conditions, the needs of the dependent children for continuing care and protection, and the ultimate goal of long-term economic independence.

(c) Eliminate the stigma of welfare by promoting a philosophy and perception that the purpose of welfare is to eliminate or reduce the harmful effects of poverty on families and children by promoting work opportunities for all New Hampshire residents.

(d) Support and coordinate with activities that promote self-sufficiency and strengthen family life.

(e) Provide a comprehensive support service package that includes: medical assistance, food stamps, child care, transportation, child support, and other support services necessary to promote economic independence.

(f) Promote successful transition from public assistance through the provision of job readiness activities, training, and education activities concurrently with employment or seeking employment, family support skills, and follow-up services for problem resolution and job advancement.

(g) Develop partnerships with employers to create job opportunities and meet the needs of both employers and participants.

(h) Provide a program where it is more advantageous to work than not to work by rewarding self-sufficiency.

(i) Implement a program that is clear, focused, and simple to administer.

VI. The goals of the family assistance program shall be to:

(a) Eliminate or reduce the harmful effects of poverty on families and children by providing financial assistance and medical assistance only to families with children in a manner compatible with decency and health.

(b) Promote employment opportunities ~~[on a voluntary basis]~~.

2 Definition of Employment-Related Activities. RSA 167:78, IX is repealed and reenacted to read as follows:

IX. "Employment-related activities" mean activities that meet the federally defined work activities in The Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA), as amended by the Deficit Reduction Act (DRA), and federal regulations promulgated thereunder and further defined in rules adopted pursuant to RSA 541-A.

3 Definition of Job Search. RSA 167:78, XIII is repealed and reenacted to read as follows:

XIII. "Job search" means employment related activities that are outlined in the employment program.

4 Definition of On-the-Job Training. RSA 167:78, XVIII is repealed and reenacted to read as follows:

XVIII. "On-the-job training" means employment-related activities provided to a person, employed by a private or public employer, that provides knowledge or skills essential to the full and adequate performance of that job.

5 Definition of Specialized Services Replaced with Definition of Interim Activities. Amend 167:78, XXII is repealed and reenacted to read as follows:

XXII. "Interim activities" mean those activities intended to address individual or family barriers to employment or to enhance long-term success in the workplace.

6 Definitions of Suspension of Job Search and Work for Benefits Program Deleted. Amend RSA 167:78, XXIV - XXVI to read as follows:

XXIV. ~~["Suspension of job search" means the suspension of a job search by a participant for a predetermined period of time.~~

~~XXV.] "Temporary absence" means any assistance group member who is temporarily away from the home for, but not limited to, the following reasons: school attendance, vacation, illness, or work.~~

~~[XXVI. "Work for benefits program" means the activities connected with the second 26 weeks of the employment program.]~~

7 Employment Program Eligibility. RSA 167:79 is repealed and reenacted to read as follows:

167:79 Employment Program; Eligibility.

I. For purposes of this subdivision, a person shall be eligible for financial assistance under the employment program who is a needy child deprived of parental support or care by reason of death, continued absence from the home, physical or mental incapacity, and who lives with a parent or an able-bodied specified relative. If the child is living with both parents, one parent shall be able-bodied. The parent or parents of the dependent child or the able-bodied caretaker relative may also be eligible for assistance.

II. The following persons shall be included in the assistance group, unless such person receives state supplemental assistance or supplemental security benefits under Title XVI of the Social Security Act, foster

care or adoption assistance, if living in the same household or temporarily absent from the household: any dependent child and all minor blood-related, step, or adoptive brothers and sisters, and all natural, step, or adoptive parents of such children, including cohabitating adults who share a minor child. In the case of a minor parent, the assistance unit may also include all natural, step, or adoptive parents of the minor parent and all minor blood-related, step or adoptive brothers and sisters. If the parents are not residing together a child shall be considered residing with the parent who has physical custody of the child the majority of the time.

III. The following requirements and conditions shall be necessary to establish eligibility for the entire assistance group:

(a) An applicant shall attend appointments necessary for entry into the employment program, including but not necessarily limited to the initial orientation interview.

(b) An applicant whose most recent case closure was the result of sanction for non-compliance in the employment program shall first participate fully in verifiable and approved employment-related activities for a period of 2 consecutive weeks.

(c) The parent or caretaker relative shall comply with the following with regard to any child for whom financial assistance is requested:

(1) Provide information and cooperate in all actions necessary to establish the child's paternity.

(2) Assign to the department the rights to any child or spousal support payments made by a person outside the assistance group to benefit any family member within the assistance group.

(3) In all other ways cooperate with efforts to obtain child or spousal support and identify and locate liable relatives, unless good cause exists.

(d) An applicant who voluntarily quits or refuses a job without good cause, as defined in RSA 167:82, III(c), while receiving financial assistance shall first participate fully in verifiable and approved employment-related activities for a period of 2 consecutive weeks.

(e) The assistance group's net income shall be less than the payment standard for the assistance group size.

(f) The assistance group's countable resources shall be less than the allowable resource limit established by the department pursuant to RSA 167:81, II.

(g) A written application, signed under a penalty of perjury, shall be completed by the person applying for assistance.

(h) A person shall provide such person's social security number, or apply for a social security number if the person does not have one.

(i) The identity of all applicants for assistance shall be verified.

(j) A parent or caretaker relative shall appear for an interview.

(k) Each person in the assistance group shall develop all potential sources of income for which such person may be eligible. Each person shall apply for such income, cooperate in applying for such income, and accept the income if eligible.

(l) No person in the assistance group shall be on strike, unless the person establishes to the satisfaction of the commissioner that:

(1) The unemployment results solely from a lockout; or

(2) That to attempt to or to cross the picket line would place the person in physical danger.

(m) An unwed minor parent shall reside with such person's parent, legal guardian, other adult relative, or in another adult supervised supported arrangement, unless:

(1) The minor parent resided separately from such person's parent or legal guardian for a period of at least one year before either the birth of the dependent child or the parent's application for assistance;

(2) The physical or emotional health or safety of the minor parent or dependent child would be jeopardized; or

(3) There is otherwise good cause for the minor parent and dependent child to receive assistance while residing separate from the minor parent's parent, legal guardian, or other adult relative; or outside of an adult supervised living arrangement.

(n) Any other requirements established by the department by rules adopted pursuant to RSA 541-A as necessary to promote the purpose and goals of this subdivision.

IV. Failure to meet the following requirements shall result in that person being ineligible for assistance:

(a) A person shall be a current resident of the state of New Hampshire.

(b) A person shall not be an inmate of a public or private institution.

(c) A person shall be a United States citizen, or shall meet the citizenship requirements established in PRWORA, as amended.

(d) Any other requirements established by the department by rules adopted pursuant to RSA 541-A as necessary to promote the purpose and goals of this subdivision.

V.(a) The following persons are not eligible for assistance:

(1) A person who is not a United States citizen, shall meet the citizenship requirements established in PRWORA, as amended.

(2) A spouse of a caretaker relative.

(3) Other persons as determined by the department by rules adopted pursuant to RSA 541-A as necessary to promote the purpose and goals of this subdivision.

(b) The treatment of needs, income, and resources of such persons in the determination of eligibility and the amount of the financial assistance payment to other persons in the assistance group shall be determined by the department by rules adopted in accordance with RSA 541-A.

VI. Failure to meet the following requirements shall result in the imposition of sanctions and the reduction of benefits or case closure for the assistance group:

(a) A parent or caretaker relative shall comply with all of the following for any child for whom financial assistance is requested:

(1) Provide information and cooperate in all action necessary to establish the child's paternity.

(2) Assign to the department the rights to any child or spousal support payments made by a person outside the assistance group to benefit any family member within the assistance group.

(3) In all other ways cooperate with efforts to obtain child or spousal support and identify and locate liable relatives, unless good cause exists. Good cause exists if the conditions defined in RSA 167:82, III(b) are met.

(b) A parent or caretaker relative shall not voluntarily quit a job or refuse a job unless there is good cause as defined in RSA 167:82, III(c).

(c) A parent or caretaker relative and case members shall attend and cooperate with all required appointments and activities for entry into and participation in the employment program.

(d) Applicants and participants of the employment program shall participate in the development of an employment contract pursuant to

RSA 167:88, shall agree to the terms of the employment contract, and shall cooperate fully with the steps established in the employment contract.

(e) Any other requirements established by the department by rules adopted pursuant to RSA 541-A as necessary to promote the purpose and goals of this subdivision

8 Employment Program Characteristics. Amend RSA 167:82 to read as follows:

167:82 Employment Program Characteristics.

I. The program shall provide financial assistance to assistance groups who meet and comply with all the eligibility **and employment program participation** requirements under RSA 167:79, 167:80, and 167:81.

II. The following persons shall be temporarily ~~[deferred]~~ **exempt** from ~~[the] participation [requirements in RSA 167:85, 167:90, and 167:91]~~ **in employment-related activities**:

(a) Dependent children under the age of 16.

(b) Dependent children age 16 or older who are full-time students in an elementary, secondary, vocational/technical school, or the equivalent.

(c) ~~[One]~~ **A parent or caretaker relative [per assistance group] who is personally providing care for a child under [the deferral age established by the department by rules adopted pursuant to RSA 541-A] one year of age, subject to a maximum exemption period for an individual of 12 months over their lifetime. A parent or caretaker relative who has exhausted the maximum allowable exemption and who subsequently gives birth to a child for whom financial assistance is requested, shall be permitted exemption immediately following the child's birth for a maximum period of 12 weeks.**

(d) A parent or caretaker relative who is 60 years of age or older.

(e) ~~[A pregnant woman as defined by the department by rules adopted pursuant to RSA 541-A.]~~ **A pregnant woman who is deemed medically unable to participate, as certified by a licensed physician. The physician shall certify, on a form provided by the department, the duration and limitations of the disability.**

(f) ~~[A person who is employed full-time as defined by the department by rules adopted pursuant to RSA 541-A.]~~

(g) A person who is temporarily unable to participate in program requirements due to illness or incapacity as certified by a licensed physician or board certified psychologist. The physician or psychologist shall certify, on a form provided by the department, the duration and limitations of the disability.

~~(h)~~ **(g) A parent or caretaker relative required to be in the home to care for another relative or assistance group member who resides in the same household due to that member's illness, or incapacity or disability; and there are no other household members to provide the care; and required care is considered necessary by a licensed physician or board certified psychologist. The physician or psychologist shall certify, on a form provided by the department, the duration that care is required. The household shall meet participation and verification requirements in PRWORA, as amended by the DRA, and federal regulations promulgated thereunder.**

**(h) Temporary exemptions shall remain in effect until the individual enters his or her 40<sup>th</sup> month of receipt of TANF financial assistance.**

~~(i)~~ **(i) A person with significant employment-related barriers, as determined by the department by rules adopted pursuant to RSA 541-A, that prevent the person from accepting immediate employment.**

(j) Any other person as determined by the department by rules adopted pursuant to RSA 541-A as necessary to promote the purpose and goals of this subdivision.

III. Financial assistance for an assistance group shall be reduced **and can lead to case closure subject to the sanction policy as established under RSA 167:79, VI, 167:82, III, and 167:82, IV and by rules adopted pursuant to RSA 541-A**, if a parent or caretaker relative of the assistance group:

(a) Fails to assign child support rights to the department.

(b) Fails to cooperate with child support requirements without good cause. A parent or caretaker relative shall have good cause for noncooperation with child support requirements when efforts to establish paternity or secure support are against the best interests of the child or parent or caretaker relative or when efforts to establish paternity or secure support can reasonably be anticipated to result in physical or emotional harm to the child or parent or caretaker relative. A parent or caretaker relative shall also have good cause for noncooperation with child support requirements when at least one of the following conditions exists:

(1) The child for whom support is sought was conceived as a result of incest or forcible rape;

(2) Proceedings for adoption of the child are pending in a court; or

(3) A social service agency is helping the parent or caretaker relative decide whether to relinquish the child for adoption, and the discussions have not occurred for more than 3 months.

(c) Voluntarily quits a job consisting of at least 20 hours of work per week without good cause 60 days or less prior to the date of application for financial assistance, and such parent or caretaker relative has not become reemployed at a level consisting of at least 20 hours of work per week. Good cause for leaving employment shall include any of the following:

(1) Discrimination by an employer based on age, race, sex, color, physical or mental disability, religious belief, national origin, or political beliefs;

(2) Work demands or conditions that render continued employment unreasonable, including but not limited to, employment in which the degree of risk to health or safety is unreasonable or employment yielding weekly earnings of less than the state or federal hourly minimum wage;

(3) Resignation by a person under the age of 60 which is recognized by the employer as retirement;

(4) Employment which becomes or is revealed to be unsuitable following acceptance of such employment, including, but not limited to, employment which the parent or caretaker relative is physically or mentally unfit to perform, or employment in which the distance from the parent or caretaker relative's home to the place of employment is unreasonable considering the wage and the time and cost of commuting;

(5) Acceptance by the parent or caretaker relative of **new** employment~~[, or enrollment of at least half-time in any recognized school, training program or institution of higher education,]~~ that requires the parent or caretaker relative to leave **current** employment;

(6) Leaving a job in order to accept a bona-fide job offer which job offer, because of subsequent circumstances beyond the control of the applicant, is withdrawn or results in employment of fewer than 20 hours per week or weekly earnings of less than the state or federal hourly minimum wage;

(7) Leaving a job in connection with patterns of employment in which workers frequently move from one employer to another, such as migrant farm labor or construction work, even though employment at the new site has not actually begun;

(8) Leaving a job because of circumstances beyond the control of the parent or caretaker relative which render continued employment impracticable, including but not limited to, lack of transportation or child care, or illness, incapacity or disability of the parent or caretaker relative, or illness, incapacity or disability of another household member serious enough to require the presence in the home of the parent or caretaker relative, net loss of cash income, required court appearance, or mandated appointments; or

(9) Other good cause.

(d) Voluntarily quits or refuses a job without good cause as defined in RSA 167:82, III(c) while receiving financial assistance. A parent or caretaker relative shall be considered to have voluntarily quit a job while receiving financial assistance if such person fails to report for work without good cause as defined in RSA 167:82, III(c), resulting in the termination of the parent or caretaker relative's employment while receiving assistance. A parent or caretaker relative who is fired or resigns from a job at the request of the employer due to such person's inability to maintain the employer's normal work productivity standard shall not be considered to have voluntarily quit the job.

(e) Fails to comply without good cause with ongoing participation requirements in RSA 167:85, 167:88, 167:90, or 167:91. Good cause shall exist when circumstances are beyond the participant's control, including, but not limited to, lack of transportation or child care, or illness, incapacity or disability of the participant, or illness, incapacity or disability of another household member serious enough to require the presence in the home of the participant, net loss of cash income, required court appearance, mandated appointments, or unreasonable risk to the health or safety of any household member. ***The participant shall be allowed 7 days from the date of notification of non-compliance to present verifiable information supporting good cause.***

(f) Fails to comply with other eligibility requirements as determined by the department by rules adopted pursuant to RSA 541-A as necessary to promote the purpose and goals of this subdivision.

***(g) Fails to provide verification of their participation in required activities or other verification as established by PRWORA, as amended by DRA, and federal regulations promulgated thereunder.***

IV. Financial assistance for an assistance group shall be reduced if a non-deferred dependent child of the assistance group:

(a) Fails to comply without good cause with ongoing participation requirements as required by RSA 167:85, 167:88, 167:90, or 167:91. Good cause shall exist when circumstances are beyond the participant's control, including, but not limited to, lack of transportation or child care, or illness, incapacity or disability of the participant, or illness, incapacity or disability of another household member serious enough to require the presence in the home of the participant, net loss of cash income, required court appearance, mandated appointments, or unreasonable risk to the health or safety of any household member.

(b) Failure to comply with other eligibility requirements as determined by the department by rules adopted pursuant to RSA 541-A as necessary to promote the purpose and goals of this subdivision.

V. [~~The department shall establish reduction rates, and the duration of the reduction for reductions under RSA 167:79, VI, 167:82, III, and 167:82, IV by rules adopted pursuant to RSA 541-A. The initial reduction rate imposed on any household shall be determined by disregarding the needs of the participant who is out of compliance, but not the needs of the dependent children. If the participant remains out of compliance at the end of the initial reduction period, then a greater reduction may be imposed which partially disregards the needs of the dependent children. No reduction shall be imposed on a household unless the participant who is out of compliance has received prior written notice of the reason for the reduction of assistance and the specific actions which must be taken in order to reinstate full assistance. No reduction shall be imposed which disregards the needs of the children when the parent or caretaker relative who is out of compliance lacks the means necessary to immediately come into compliance.~~ *The department shall establish a sanction policy for participants who are non-compliant with program requirements. The sanction policy shall establish the timing and occurrence of benefit reduction and termination of the TANF financial assistance case for non-compliance as provided in this paragraph. The following progression of sanctions shall apply:*

*(a) The initial sanction shall consist of reduction of financial assistance benefits representing the needs of the individual who is out of compliance. The second level of sanction shall consist of reduction of 1/3 of the adjusted payment standard for the assistance group. The third level of the sanction shall consist of reduction of 2/3 of the adjusted payment standard for the assistance group. At the end of the third level of sanction the TANF financial assistance case shall close. Each sanction shall apply for a 2-week period and progressive sanctions shall apply unless and until the participant demonstrates full compliance.*

*(b) For non-compliance in the employment program or for voluntarily quitting a job as defined in RSA 167:82, III(c), full compliance is demonstrated by completion of verifiable participation in approved employment-related activities for 2 consecutive weeks.*

*(c) For non-compliance in paternity identification or assignment of support, full compliance is demonstrated by fully cooperating in all action necessary to identify and establish paternity or to identify, locate, assign and obtain support.*

*(d) For non-compliance by a non-deferred dependent child in participation requirements, the initial sanction shall consist of reduction of financial assistance in the amount established to meet the needs of the dependent child. The benefit reduction shall continue for the duration of the non-compliance.*

*(e) For all sanctions, the reduction period shall apply to the period immediately following the determination of non-compliance. A determination of non-compliance shall be made within 10 days of an act of non-compliance, barring a finding of good cause. The participant shall be allowed 2 weeks from the date of benefit reduction to demonstrate full compliance. No sanction shall be imposed on a household unless the participant who is out of compliance has received prior written notice of the reason for the reduction of assistance and the specific actions which must be taken in order to reinstate full assistance.*



*(f) A participant, other than a non-deferred dependent child, who is in sanction status for a cumulative period of 3 months over a 12-month period shall have his or her TANF case closed.*

*(g) For a TANF financial assistance case that closes in sanction status, in the event of reapplication for financial assistance at a later time, the participant shall demonstrate full compliance before the TANF financial assistance case may be processed.*

VI. Participants shall be eligible for medical assistance as categorically needy provided they receive financial assistance under this subdivision, or are otherwise eligible to receive such assistance but do not. An assistance group that becomes ineligible due to new or increased earnings shall remain eligible for medical assistance for 12 months from when the assistance group became ineligible **pursuant to rules adopted under RSA 541-A.**

VII.(a) Financial assistance payments shall be based on the characteristics of the assistance group under this section and the standard of need and payment standard as authorized in RSA 167:7, II. The financial assistance grant is the difference between the assistance group's net income and the payment standard. The financial assistance payments may be contingent on the performance of program activities and may be made after the performance of such program activities. The following disregards and deductions shall be allowed in determining net income:

(1) An applicant earned income disregard.

(2) A participant earned income disregard.

(3) A deduction for all amounts actually paid by the assistance group for court-ordered payments.

(4) A deduction for amounts actually paid for child care expenses not to exceed the applicable rate as determined by the department by rules adopted pursuant to RSA 541-A.

(5) [Repealed.]

(6) Any other disregard or deduction established by the department by rules adopted pursuant to RSA 541-A as necessary to promote the purpose and goals of this subdivision.

(b) The department may establish the amount of the earned income disregard or any other disregard or deduction by rules adopted pursuant to RSA 541-A.

VIII. When the department has made a final determination that a parent or caretaker relative, without good cause, has failed to comply with employment program work requirements under RSA 167:85, and assistance to the household has been reduced **or closed** pursuant to RSA 167:82, III(c)-(e) or IV(a), the amount of reduction shall be a qualified state assistance reduction. The reduction **or closure** shall remain a qualified state assistance reduction for so long as the parent or caretaker relative is a New Hampshire employment program recipient and maintains the present ability to cure the reduction by complying with employment program work requirements. The department shall provide advance notice to the parent or caretaker relative of the amount and effective date of the qualified state assistance reduction **or closure** and that a city or town may consider the amount as deemed income for purposes of calculating eligibility for and the amount of general assistance. Upon request, the department, in a timely manner, shall make available to the welfare administrator of any city or town information as to the existence and amount of any qualified state assistance reduction **or closure** that has been imposed on any person applying for assistance from that municipality.

9 Infringement on Rights of Other Employees Prohibited. Amend RSA 167:82-a, I to read as follows:

I. The employment program shall not ~~[use participants]~~ **require individuals to participate in the employment program** in any way contrary to federal law under section 407(f) of the Social Security Act.

10 Rulemaking; Notice Requirements. Amend RSA 167:83, II(b) to read as follows:

(b) Notification of case decisions which affect the **type or** amount of benefits, ~~[or] the~~ level of eligibility ~~[to participants]~~, or changes in participation requirements.

11 Rulemaking. Amend RSA 167:83, II(o) to read as follows:

(o) **Operation of the employment program and employment-related activities as required by PRWORA, as amended by DRA, and federal regulations promulgated thereunder.**

(p) Any other matters necessary to implement the program in a manner that promotes the purpose and goals of this subdivision.

12 Right to Notice of Type and Amount of Benefits. Amend RSA 167:83, III(c) to read as follows:

(c) To be notified of the decision relative to eligibility, **benefit amounts**, and of any changes which affect the benefit amount, the level of eligibility, or changes in participation requirements.

13 Family Assistance Program. Amend RSA 167:84, I and II to read as follows:

I. The family assistance program shall provide financial assistance for dependent children who:

(a) Are deprived of parental support or care by reason of death, continued absence from the home, physical or mental incapacity, ~~or the unemployment or underemployment~~ of a parent; and

(b) Reside with either their nonable-bodied specified relative or a caretaker relative who is not included in the assistance group. Financial assistance shall be provided to the parents of the dependent child **for the benefit of the child**. Financial assistance may be provided to the nonable-bodied caretaker relative **for the benefit of the child**.

II. An applicant shall meet all eligibility requirements under RSA 167:79, II, III, IV, V, VI(a), **RSA 167:80 and RSA 167:81** to be eligible for financial assistance under this section, and shall be subject to applicable sanctions, **including case closure**, under RSA 167:82, III(a), III(b), and III(f).

14 Employment Program Work Component; Employment-Related Activities. RSA 167:85 is repealed and reenacted to read as follows:

167:85 Employment Program Work Component; Employment-Related Activities. All applicants and participants in the employment program shall attend and participate in required appointments, employment contract development, and employment-related activities for eligibility into, and while participating in, the program unless temporarily exempt from participation as authorized by RSA 167:82, II. Noncompliance with employment-related activities without good cause shall be subject to financial assistance reductions and case closure pursuant to RSA 167:82, III and IV.

I. Participants shall attend and participate in employment-related activities within the parameters specified by PRWORA, as amended by DRA, and federal regulations promulgated thereunder. An individual is participating in work and work activities for a month in a fiscal year if the individual is participating in work activities for a minimum of 30 hours per week, except as noted in paragraph III, of which not fewer than 20 hours per week consist of participation in the following core activities and within the limitations specified:

(a) Unsubsidized employment.  
 (b) Subsidized private sector employment.  
 (c) Subsidized public sector employment.  
 (d) Work experience if sufficient private sector employment is not available.

(e) On-the-job training.

(f) Job search and job readiness assistance, limited to 4 consecutive weeks and 6 weeks total.

(g) Community service programs.

(h) Vocational educational training which includes post-secondary education, within the following limitations:

(1) Participation shall not exceed 12 months.

(2) Not more than 30 percent of individuals may be determined to be engaged in such activity for the purposes of determining monthly participation rates.

(3) Within any other limitations established by PRWORA.

(4) An extension beyond the limitations outlined may be granted for a maximum of 3 months if deemed necessary in order to provide for successful transition to employment and approved by the department.

(i) The provision of child care services to an individual who is participating in a community service program.

II. Additionally, the individual may participate in the following secondary activities for 10 additional hours in order to combine with core activities and meet the 30-hour weekly minimum:

(a) Job skills training directly related to employment.

(b) Education directly related to employment, in the case of a recipient who has not received a high school diploma or a certificate of high school equivalency.

(c) Satisfactory attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a recipient who has not completed secondary school or received such a certificate.

III. A recipient who is married or is a single head of household and has not attained 20 years of age shall be required to maintain satisfactory attendance at secondary school or the equivalent during the month or participate in education directly related to employment for at least 20 hours per week pursuant to federal regulations.

IV. A single parent with a child under 6 years of age shall be deemed to be meeting work participation requirements if participating in core work activities for 20 hours per week.

V. A person temporarily deferred under RSA 167:82, II may participate in the employment program on a voluntary basis to the extent that the program is available and funding and resources are sufficient as determined by the commissioner. If such a person participating in the employment program does not meet the requirements of this section without good cause pursuant to RSA 167:82, the person shall not re-enroll for 3 months.

VI. The commissioner shall waive requirements under this section if funding, resources, and support services are not available to administer this section.

15 Employment Assessment; Employment Contract. Amend RSA 167:88 to read as follows:

167:88 ~~[Initial]~~ Employment ~~[Appraisal and]~~ Assessment; Employment Contract.

I. The commissioner shall ~~[determine]~~ **assess** a participant's ability for employment based on:

(a) Such person's work experience, skills, training, education, physical abilities, local labor market area conditions, and if appropriate, aptitude and vocational interests.

(b) Such person's child care, transportation, and other support service needs.

(c) Any other factors that the employment program considers relevant in accordance with rules adopted pursuant to RSA 541-A.

II. The commissioner may make the ~~[determination]~~ **assessment** in paragraph I through various methods, including, but not limited to, interviews, testing, counseling sessions, and self-assessment instruments. Participants identified as needing additional services not provided by the commissioner may be referred to community agencies, resources, and services.

III. The commissioner shall develop an employment contract in conjunction with the participant. To the extent that it is feasible and consistent with the purpose and goals of this subdivision, the employment contract shall reflect the preferences of the participant with respect to goals for employment, training or education. The employment contract shall:

(a) Indicate employment goals for achieving long-term economic independence, including goals for immediate employment in the labor market.

(b) Outline a planned series of action steps necessary to achieve employment goals.

(c) ***Include mandatory participation in interim activities as assessed by the employment program.***

(d) Describe the services to be provided by the employment program.

~~(d)~~(e) Identify the support service needs of the participant and indicate how those needs are being addressed.

IV. The commissioner shall make the final approval of the employment contract.

16 Interim Activities. RSA 167:91 is repealed and reenacted to read as follows:

167:91 Interim Activities. The following describes interim activities and associated participant requirements:

I. Each participant less than 20 years of age, who is not enrolled in school and who does not have a general education diploma (GED) or a high school diploma (HSD) shall:

(a) Actively pursue an education designed to prepare such person to qualify for a high school equivalency diploma; or

(b) Enroll in school to pursue a high school diploma.

(c) Each participant required to pursue an education under paragraph I and who is unable to obtain a GED or HSD in a specified period of time may participate in activities ~~[be offered services]~~ intended to enhance basic literacy and work skills.

(d) A participant shall be permitted to volunteer to participate under paragraphs I and II as funding and resources permit.

II. A participant shall be exempt from the requirements of paragraph I if:

(a) The participant is unable to successfully complete educational activities and is willing and able to participate in employment-related activities; or

(b) The participant's involvement in educational activities is inappropriate, based on assessment and the employment goals established in the employment contract, and such goals do not require a high school diploma or equivalent.

III. An individual may participate in interim activities when the activity has been determined to be reasonable and necessary for his or her entrance into or success in the work force. Participation in an interim activity may not count as an approved activity under PRWORA, as amended by the DRA and federal regulations promulgated thereunder. Interim activities include:

- (a) Mental health counseling services.
- (b) Homelessness services.
- (c) Substance abuse services.
- (d) Domestic violence services.
- (e) DCYF services.

(f) Vocational educational training beyond that countable as an employment-related activity under PRWORA, as amended by DRA.

(g) Post-secondary education and vocational educational training beyond that countable as an employment-related activity under PRWORA, as amended by DRA.

(h) English as a second language services.

(i) Job search and job readiness beyond that which is countable as employment-related under PRWORA, as amended by DRA.

IV. The department shall be the payor of last resort for all expenses involved in any training and postsecondary educational activity, and participants shall be required to apply for any other available assistance, prior to receiving financial assistance from the department. Financial assistance for training and educational programs shall have monetary limits established by the department by rules adopted by the commissioner pursuant to RSA 541-A.

V. The duration of services under this section shall be determined by the commissioner by rules adopted pursuant to RSA 541-A as necessary to promote the purpose and goals of this subdivision.

17 Alternative Employment Experience Program Renamed Work Experience and Community Service Program. Amend RSA 167:91-a and 167:91-b to read as follows:

167:91-a Infringement on Rights of Other Employees Prohibited.

I. The ~~[alternative employment experience]~~ **work experience and community service** program shall not ~~[use participants]~~ **permit individuals in the employment program to participate** in any way contrary to federal law under section 407(f) of the Social Security Act.

II. No participant in the ~~[alternative employment experience]~~ **work experience and community service** program shall be required to work for more hours than would be needed to produce an equivalent compensation if the participant were paid at the federal minimum wage level, unless a greater number of hours is necessary for the participant to meet federal work participation requirements.

III. Participants in the ~~[alternative employment experience]~~ **work experience and community service** program shall receive the protections regarding sexual harassment and work conditions, not related to compensation and benefits, which are available to regular employees in that workplace such as safe environment, non-discrimination, and adequate rest and meal periods.

IV. Participants in the ~~[alternative employment experience]~~ **work experience and community service** program administered by the state shall be considered employees of both the state and the sponsor for workers' compensation purposes only, and any claims for workers' compensation thereunder shall be charged to the temporary assistance to needy families program. The state and the sponsor shall both be entitled to the

exclusivity of remedy provisions of RSA 281-A:8. For purposes other than workers' compensation, the state shall not be vicariously liable for the actions or omissions of the sponsor and the sponsor shall not be vicariously liable for the actions or omissions of the state. Nothing in this section shall prohibit any direct contractual liability between the state and the sponsor.

167:91-b [~~Alternative Employment Experience~~] **Work Experience and Community Service** Program Participants; Workers' Compensation Eligibility.

I. For the purposes of RSA 281-A, an employment program participant is an employee of both the state and the sponsor. In the event that it is determined that the participant has been subject to an injury or occupational disease producing a disability arising out of and in the course of participation in the employment program, the program shall not provide compensation pursuant to RSA 281-A:28, 281-A:28-a, 281-A:31, and 281-A:31-a, but the participant shall receive benefits from the employment program while otherwise eligible, or compensation equivalent to those benefits if the participant becomes ineligible for benefits under RSA 167. When determining the amount of compensation provided pursuant to RSA 281-A:32 for a scheduled permanent impairment award, the amount of compensation shall be calculated by using the minimum wage at the time of injury multiplied by the average number of hours worked per week or the number of hours agreed to by the program and the participant, whichever is higher.

II. The department of health and human services may provide this benefit by appropriate means including purchasing and serving as the master policyholder for any insurance, by self-insurance or by administrative services contract. Except as otherwise provided in this section, all other provisions of RSA 281-A apply.

18 New Sections; Pilot Performance Measurement System, TANF Advisory Council, and TANF Pilot Diversion Program and Study Established. Amend RSA 167 by inserting after section 93 the following new sections:

167:93-a Pilot Performance Measurement System.

I. The department of health and human services shall establish a performance measurement system designed to assist the department in meeting the goals of the TANF reauthorization program, including, but not limited to, a mission statement identifying values that focus on qualitative outcomes. The pilot system shall be adopted on or before January 1, 2007. The system shall include: measurement and tracking of individual employee performance; tracking and analysis of programmatic outcomes; and tracking of other data or information otherwise useful in establishing success in moving clients into work participation, as defined by federal law. The department shall, for each indicator, develop performance and benchmark scores that reflect normal or expected performance. In developing these indicators, the department shall consult with the oversight committee on health and human services, established in RSA 126-A:13.

II. The department shall report annually. The report shall include data and comparison with prior years and shall indicate normal or expected performance levels. Each annual report shall be made to the speaker of the house of representatives, the president of the senate, the governor, and the appropriate legislative policy committees. The first such report shall be submitted by December 15, 2007.

167:93-b TANF Advisory Council Established.

I. An advisory council on Temporary Assistance To Needy Families (TANF), hereinafter called the TANF advisory council, is hereby established. The advisory council shall consist of the following members:

(a) The commissioner of health and human services, or designee.

(b) The commissioner of employment security, or designee.

(c) The commissioner of the department of resources and economic development, or designee.

(d) The director of the division of family assistance, department of health and human services.

(e) A member of the senate, appointed by the senate president.

(f) A member of the house of representatives, appointed by the speaker of the house of representatives.

(g) A representative of a child advocacy organization, appointed by the governor.

(h) A member of the City and Town Welfare Association, appointed by the governor.

(i) A resident of the state and of the lay public, having no official connection with TANF, appointed by the governor.

II. The advisory council shall meet twice annually. The terms of appointed members shall be for 5 years, except that the terms of members appointed under subparagraphs I(a)-(f) shall be coterminous with their terms of public office of employment. Members of the council shall serve without compensation but shall be entitled to receive mileage and expenses when in performance of the duties required under this section.

167:93-c TANF Pilot Diversion Program and Study. The department of health and human services shall perform a pilot diversion program and study for a limited population of TANF applicants who receive assessment and benefits prior to entry into the TANF program. The study shall assess the feasibility, effectiveness and work participation rate impact of a diversion program. The department shall report its findings to the oversight committee on health and human services on December 31, 2006.

19 Financial Assistance Program for 2-Parent Need Families to be Established. By October 1, 2006, the department of health and human services shall establish a financial assistance program for 2-parent needy families with dependent children in which one parent is underemployed or unemployed. With the exception of parental underemployment or unemployment, client eligibility, program requirements and administration shall be in accordance with RSA 167 and the rules adopted under this chapter.

20 Legislative Oversight. The oversight committee established by RSA 126-A:13 shall monitor changes to the state TANF program made pursuant to this act and shall provide informational meetings on such changes to the general court.

21 Job Search Program. Amend RSA 167:90, I to read as follows:

I. The commissioner shall provide appropriate employment services as funding and resources permit, including, but not limited to, job referrals, job development, workshops, counseling, labor market information, vocational assessment and testing, and referral to appropriate community agencies and resources. ***The commissioner may operate structured job search activities, referred to as Job Club, in all employment program offices. Job Club shall be staffed by positions funded from the TANF reserve of 100 percent federal funds. These positions shall be in addition to the staffing of the employment program office.***

22 TANF Appropriation. The sum of \$500,000 is hereby appropriated, for the biennium ending June 30, 2007, to the department of health and human services for the purpose of supporting 2-parent families in the Temporary Assistance to Needy Families (TANF) program. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

23 Effective Date. This act shall take effect October 1, 2006.

## 2006-2157s

### AMENDED ANALYSIS

This bill revises state laws relative to the Temporary Assistance to Needy Families (TANF) program. The changes to state law are in response to the federal reauthorization of TANF in the Deficit Reduction Act of 2005, Public Law 109-171. The bill also makes an appropriation to the department of health and human services for the purpose of supporting 2-parent families in the state TANF program.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 1331 ought to pass with amendment. This bill is in response to the reauthorization of TANF and the federal Deficit Reduction Act and is necessary. They contain challenging requirements that must be met by October 1<sup>st</sup> of this year or be faced with severe financial penalties. This bill will allow us to meet those new federal standards without risking additional costs that would run in the millions of dollars. One of the biggest changes in the federal law is a strict requirement to increase the number of TANF recipients who have to work. To meet those requirements, exemptions currently allowed by the state and not the federal government, have to be removed. Such as parents with children between the ages of one and two who are being sanctioned for not complying with the program in three months. Currently, they are allowed to stay on welfare for seven months or longer. These exemptions cannot be continued to meet the new federal standard. It also requires that TANF recipients sign up for work orientation and training before they receive their first check. Seventy percent of the people who sign up for TANF and get their first check don't show up for work training. In addition, mothers who are applying for TANF are required to identify the father of the child before they can receive benefits. This will allow the state to make sure that the fathers are financially contributing to the cost of raising their children through child support. A plan is in place to address the need to increase child care and transportation infrastructure to insure those who receive TANF have the tools they need in place to work. This bill is an opportunity to transform the program and move those who use TANF to independence and self-sufficiency. The Finance Committee asks for your support for the motion of ought to pass with amendment. Thank you.

SENATOR ESTABROOK: Thank you, Mr. President. As a member of the Health and Human Services policy committee, I feel I need to rise just to express my concern that this bill was not debated in policy committee. And that concerns me even more because, when the bill passed the House, the blurb in the House Calendar stated that the bill would go to policy and Finance Committees in the Senate, since the House had not been able to study the policy either. So, I'm very concerned that what we have here is a complex bill. We all know changes need to be made to come into compliance with the new federal regulations, but there are many ways that we could approach that, and there are provisions in this amendment that have not, in my opinion, had a full hearing, and I am



very uncomfortable with them. I know that the bill will be going to Committee of Conference, and that's great, but it's a very strange place for us to be having our initial policy debate. And, I just hope that we'll consider that when we find out what comes back from the Committee of Conference.

SENATOR LARSEN: I, too, rise. While you will see a floor amendment, I have to speak to the bill first, which retains some problems in my mind, in the existing TANF sanction policy versus the proposed as is in the bill before you. Presently, we have what is in essence a seven-month process by which TANF funds are reduced to people who do not comply with the regulations. They're reduced slowly over time, and if they get back into compliance, they are returned to their levels. But what we have proposed is a process by which there may be people who are six weeks...within six weeks, they are denied any further TANF benefits because they have not complied. I am not defending those who are willfully trying to take a TANF check and do...and not comply, but I am always fearful that many of those who are on the Temporary Assistant to Needy Families are young twenty-one-year-olds perhaps with two babies, who are not as capable of making all the parts of their lives work. They're busy trying to make a minimum wage or their home with two children and working to survive on what is in essence perhaps a \$480 a month check. The present proposal before you will mean within six weeks even that minimal \$480 could be gone. I have concerns. And I know, in Finance Committee, we expressed those, that we will...there is a place of last resort and that's your town welfare offices and your city welfare offices. And you will see, if we have an extremely penalizing process, you will see your town welfare costs increase in their budgets. We have worked on a floor amendment that will, I hope, address a couple of the problems that are in the bill, and we have agreement on that. And I hope that the Conference Committee will continue to address the issue of how fast someone can cycle out of the program, because I think that can cause dramatic problems to town welfare offices as well as to the young women, primarily, who are trying to get by on minimal income and feed their family. I would remind you that the last words of TANF are "Needy Families", and that's what we need to continue to work to improve or to actually get them out of neediness. Thank you. If you would recognize me for a floor amendment, I'll do that.

SENATOR BURLING: Thank you, Mr. President. Mr. President, at the risk of sounding like someone having a tiff, the fact of the matter is, this incredibly important issue has arrived on our desks within the last forty-eight hours. For me personally, it was oh, six hours ago. And it arrives on our desk in a document "TANF in a time of change federal law provides opportunity for positive change. John A. Stephen, Commissioner." Well, this wonderful opportunity for positive change is reflected in an amendment which, by my count, takes up thirteen pages of our Calendar 17B. And I have to say, Mr. President, I think this is madness. There is no one of us in this hall who can claim that a person on a committee of policy expertise has reviewed any of this. What we see in this so optimistic flier, I can only describe it as, 'cause it looks like we're going on a vacation together, that the federal program has a broad new view of work activities. It's going to take people who are recipients of TANF from a 30 percent work activity participation to a 50 percent work activity participation for single parents, and a 90 percent for two parent families, and the ramp-up looks like a concrete wall. I just want to say this as a \$100 a year legislator: Somebody doesn't think very highly of our

thought process. Somebody doesn't think very highly of our obligation to do careful work. There are people in this state government who have known about this for weeks, if not months, and yet what we get is an opportunity for positive change which we're deliberating at 8:30 on the last night. And it's millions of dollars. I intend to vote no and no and no again and, in so doing, I intend to send the following message: "Commissioner Stephen, you have a budget. You have federal obligations which you must meet. And apparently, you have such an aphoristic...optimistic view of this opportunity for positive change, then you can do it. You don't need us. But, don't you lose one of those \$4 million, and don't you let a single one of New Hampshire's families in need, down." Thank you, Mr. President.

SENATOR MORSE: Thank you, Mr. President. I honestly believe the Department people have worked hard on this and they're here, at 8:30 at night. People from Washington have flown up here to say the "Game's over, you're not going to be able to get waivers anymore." And they told us, and that's why I think it came to Finance, which there were a lot of bills that I didn't want this year, I can assure you of that. In Finance, it was \$4 million to \$58 million in ten years. Those were the numbers that we looked at. The first year, \$4 million, and then the penalties grow after year one. The state of New Hampshire would have to go from 29. something percent to 50 percent of single parent families going in the workforce. Financially, the Department is putting in \$1.5 million just in childcare. Just in childcare. Transportation, the number hasn't surfaced yet. But I can tell you they are working on these things and that's why the financial part of it came to this committee. On top of that, they asked for \$500,000. There is another issue here. Two parent families, we have to get to 90 percent. We're going to have to move them out of this program. I know it seems like everything happens in fifteen minutes, but the calendar in the Senate wasn't exactly easy. I didn't make that up. Finance was dealt with what it was dealt. We set up as many meetings as we could set up. The Commissioner did as much as he could do at my end. If I lacked on the other end, it's because of the policy end. But quite frankly, he's a commissioner. I trusted most of what he did. What was in question was discussed in committee. Now, if it wasn't long enough, there was no more time. But quite frankly, I think you could have passed exactly what we got. Senator Larsen wanted to create a new program. Did it need to happen? I don't know. I trust Senator Larsen. The Commissioner signed off on it. She's going to offer an amendment that's going to fix it so it says it "shall" happen. The fact is, we discuss things and we change things. I don't think there's anything wrong with what we did. Anything wrong at all. You're right, Senator Burling. The fact is, we'll know. We'll know next year. If some person turns up on one of our doorsteps, there isn't a Senator here that won't respond to Commissioner Stephen. That's reality. But I've said before when I have had to defend him in this building, the reality is, nobody, nobody, after what we did in the budget last year, didn't get served. If I got a phone call and I called that department, the person got taken care of. And I am sure that it happened with every one of you. He's been just as responsive with every single one of you. And I don't think it goes on party lines, quite frankly. So I trust the fact that a lot of work went in before we got it. Some things that we might have wanted went into this. I am sure you're going to see an amendment that's a friendly amendment. I'll support that amendment, but from the financial point of view, it makes sense.

SENATOR HASSAN: Thank you, Mr. President. And just briefly. I would like to say to the Chair of Finance I don't think any of us doubt that the Finance Committee did the best it could when this bill was presented, nor do I question the Finance Committee or the Commissioner's work ethic. They've all done an excellent job in an extraordinarily busy schedule. I think the issue many of us have, is that often what happens with the finances in a program as complicated as this, is that there are policy implications and policy changes that get driven by financial decisions when in fact, the policy should be considered first so the finances can fit later. It's unfortunate that it didn't happen this way. I share Senator Burling's concerns. What we do here, and it's all very well intended, has huge implications for the people we serve, and it would have been much better if the policy committee could have sat down with the Commissioner first, established those goals, the philosophy of this state, with regard to how it was going to comply with the federal requirements and then brought it to Finance, where they could have continued to do the excellent job that they do. Thank you.

**The question is on adoption of the committee amendment.**

**A roll call was requested by Senator Green.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**The following Senators voted No: Burling, Green, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**Yeas: 15 - Nays: 8**

**Amendment adopted.**

Senator Larsen offered a floor amendment.

Sen. Larsen, Dist. 15

**May 4, 2006**

**2006-2208s**

**05/09**

### **Floor Amendment to HB 1331**

Amend RSA 167:79, III(c) as inserted by section 7 of the bill by replacing it with the following:

(c) The parent or caretaker relative shall comply with the following with regard to any child for whom financial assistance is requested:

(1) Provide information and cooperate in all actions necessary to establish the child's paternity unless good cause exists.

(2) If the father is not identified, participate in an interview with a child support worker for the purpose of understanding the importance of child support and establishing paternity prior to any action to deny eligibility and cooperate with all action required to establish paternity and assign support.

(3) Assign to the department the rights to any child or spousal support payments made by a person outside the assistance group to benefit any family member within the assistance group.

(4) In all other ways cooperate with efforts to obtain child or spousal support and identify and locate liable relatives, unless good cause exists. Good cause exists if the conditions defined in RSA 167:82 III (b) are met.

Amend the bill by replacing section 21 with the following:

21 Job Search Program. Amend RSA 167:90, I to read as follows:

I. The commissioner shall provide appropriate employment services as funding and resources permit, including, but not limited to, job referrals, job development, workshops, counseling, labor market information, vocational assessment and testing, and referral to appropriate community agencies and resources. ***The commissioner shall operate structured job search activities, referred to as Job Club, in all employment program offices. Job Club shall be staffed by positions funded from the TANF reserve of 100 percent federal funds. These positions shall be in addition to the staffing of the employment program office.***

SENATOR LARSEN: Thank you, Mr. President. As we discussed this bill, there was some agreement that two items could be addressed which could at least begin to clarify the process. One, the amendment you're receiving has two parts. It looks long, but in essence the lines 1-16 talk about establishing paternity. One of the early proposals we saw suggested that they would ask the paternity of the needy children, and if the parent refused to reveal who the father was, they could be denied TANF immediately. In talking this through with people who do this on a regular basis, they suggested a process that was more reasonable. Because what we were told was that there are young women who come in, who don't understand why they're being asked who's the father, and they will refuse to protect...or there may have been some embarrassing situation that they don't want to reveal. The process that was suggested by Mary Anne Broshek who has thirty years in the Department was one which would encourage the person to participate in an interview with a child support worker who could explain the reasons for why they're asking what most of us would consider may be a private question, and to work through with them to a point where perhaps they could qualify for TANF benefits. So that's lines 1-16. The second part lines 20 on, in essence, repeat what's in your calendar in the last section, but what we are...had in discussion and agreement was that this job club, which has been shown to work in Manchester and successfully helped TANF recipients into a reasonable work situation and help them figure out how to do childcare, and how do I get to work. This job club is a support group as well and it has worked. I believe Manchester was the pilot site. So, through our discussions and agreement, we found that this was a successful effort and it could in fact use some of the hundred percent federal funds which we have somewhere in the nature of \$40 million in Washington for TANF reserves. Those monies, they assure us, will also be used to help people with childcare needs and transportation needs, but we are identifying the job club because it works. It's something which we are asking the Commissioner...or requiring the Commissioner to operate and structure job search activities. So we're encouraging a step forward that we hope will be a positive step amidst some of these other items which I think many people will feel are difficult, making their lives more difficult. So I rise to support the floor amendment. I ask for your support of it and, as you've heard from our Finance Chair, there's agreement that these two things are alright. Thank you.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

SENATOR GREEN: Thank you, Mr. President. I had to get up, right. I think it's appropriate since I voted no on this that I explain my vote for

the record. I have looked at this amendment, like those of us who have had it for a few days. It's a very, very complex piece of legislation. It's not something you just read and understand what the implications are going to be. There were a couple of things in here though, that I think is clear to me, at least as I read it. The federal government wants to save money. That's fine. The state government wants to save money. That's fine. But you know what? Somebody's not going to save money, and that's your local communities, every one of them. You are actually passing down a mandated cost to every one of your communities with this bill. Now I don't know how much we're going to keep doing this, because that is the one thing that creates the major problem we are having in this state, and that is the local property taxes. And I don't know when we're going to bust the balloon, but we're going to bust it pretty quick. And this bill is going to be part of that effort. Because, under the law, the local communities must serve those people in need, unless we decide to change the law, and say we're not going to serve them. Let them hang out on the street. Whatever you want to do with them. We're not talking about just adults here; we're talking about children. So I can't in good conscience vote for this piece of legislation. It is not the right thing to do for the people we serve. Now I'm also frustrated by the timeframe. I'm also frustrated by getting things at the last minute. And by the way, that is a practice around here every so often. We get these big bills, no one has a chance to read it, so everything is on faith. It depends who you trust. Well, you get burned a couple times and you don't trust anymore. I have been burned a couple of times in terms of Health and Human Services. So I'm leery when I see a piece of legislation like this. It looks wonderful. The Commissioner says it's okay. Guess what? You're going to find out whether it's okay. We're going to save money in the state. We're going to let the government hand down the cost to us. Remember, those of you who are local officials **TAPE CHANGE** your local community. On that basis, I have got to vote no. I've dealt with local budgets many times and one of the things we can't control are those things that we can't control, and this will become one of them. So I have to vote no and I can't do anything other. Thank you.

SENATOR BURLING: I rise to thank my colleague for that excellently timed speech. I've watched with admiration as Senator Morse has from time to time risen and told us how much we have spent. Well, I propose to stand up and tell you tonight how much the federal government has forced us to spend or forced our communities to spend just today. There is little question but what REAL ID can cost between \$10 and \$14 million a year in the DMV alone. This is going to be \$8 to \$10 million on our local communities, which have no capacity to absorb a property tax increase like this. And you know what? It is directly inverse. The communities have the least possible capacity to absorb this downshift, are the ones with the largest populations who are going to generate costs. It's a terrible idea. Thank you for listening. I would like to say my personal thanks to Congressman Bradley and Congressman Bass for the \$24 million in today's downshift from Washington.

**Recess.**

**Out of recess.**

SENATOR ODELL: Thank you, Mr. President. The reason I was going to rise earlier was to just emphasize that, in our deliberations in the Finance Committee, I'm not sure how much time the Department had to get ready for this period, but I believe this goes into effect on October 1 of the new

fiscal year for the federal government. And I don't care for a lot of the things in there, but I also saw the stark numbers of people who in a sense, are abusing the system because it is so loose that they are collecting benefits over a long period of time, not even coming in for their first counseling session. And to think that the state of New Hampshire would be penalized by \$4 million and possibly \$50 million over ten years, got my interest. Now we didn't do any finger pointing about who was at fault or who was right or who was wrong and say somebody else's problem. We can fix the problem if we want to come up with the \$50 million over the next ten years. I'm not sure if we have the will or the way to do that, but I want to emphasize that I think it was a well-meaning debate, and Senator Green sits next to me so we have a little going back and forth from time to time. But I think that, in all sincerity, I think we tried to do the right thing and certainly we're aware of the potential, but hopefully, it is a de minimis potential in terms the amount that will be shifted if at all, to the local welfare offices. Thank you, Mr. President.

SENATOR BOYCE: Thank you, Mr. President. I just wanted to rise to point out some facts about the TANF Program. I've heard that the expectation is that people that are on the program will somehow become wards of the towns on welfare, and the problem is that we were told that 70 percent of them probably are not properly in the program anyway. Up to 70 percent, four hundred cases per month. People simply don't show up after they go in and draw their first check. They start getting their checks and they never come back. Now we don't know where they are, but for several months they get money. And the idea is that somehow if they stop getting those checks, that they're going to drop down to the welfare. The reality is that one of the reasons we have this...it was mentioned the \$40 million in Washington that we can draw on, that's because when TANF was first put in, which ended welfare as we know it. I think, wasn't there a vice president, that said, "We're ending welfare as we know it"? I didn't have a lot of respect for him in a lot of ways, but he was right. They did end welfare. They instituted TANF. And TANF ended the old welfare system which was being highly abused across the country. There were generation after generation after generation of people who never had an income off of welfare. And when TANF was brought in, it was to bring people out of that situation and get them to prepare themselves for a real life, in the real world, where people earn a living and pay their own way. And the reason we have this big chunk of money in Washington is because the expectation of it was that we would have X number of people on TANF when we started it up. TANF said, "If you want that check, you gotta work." What happened was people who should not have been on welfare, simply went away. They didn't apply for TANF because they didn't want to have to work. They figured out some other way to get along in life. Maybe they went to a state that had easier regulations. Whatever. But the number of people who were on welfare shrunk dramatically, not just in this state, but across the country. Some states were embarrassed that they had such a small number of people on welfare after TANF came in...on TANF...that they had their maintenance of effort was more than it would cost to pay everybody in the program, and they never got any federal money to pay TANF because they didn't need it. Ninety-five percent of the people on welfare in Wyoming never showed up to take TANF. That's the reality is, that when you tell people "Okay, we're not going to give you a check for seven months for not showing up. We're going to make you actually you go to work. Come in and do job counseling. We're going to make you do something to earn that

money." They're either going to go out and get a job and go on with their life or they're going to figure out some other way to get along without the government handout. They're not going to go to the local town welfare and ask for money because that's probably about as tough to get money from as it is to get TANF money. It's not going to happen. It didn't happen to this state when we brought in TANF; it won't happen this time. People that take the handout don't want to have to work for it, they'll find out some other way to get free money if they have to or else they finally will go to work. If they're going to have to go to work, they might as well just get a good job and go to work. But we won't have people dropping out of this and going to welfare. This is not an unfunded federal mandate. This is instead, a way for people to improve their situation. It is to...the whole TANF Program is to get people to improve their situation, not sit home and draw welfare check forever, for generation after generation as they used to do, but instead, get themselves a job, pull themselves up by their own boot straps, which is the way Americans do things, especially in New Hampshire.

SENATOR MORSE: Thank you, Mr. President. First of all, this is the second time today that we've taken pop shots at our federal delegation, first, Senator Gregg and now the two Congressmen. If no one else is going to rise and speak about that, I will. I think it's wrong. I think the fact is, if you want, I'll start studying the federal budget and we'll start talking about the \$24 million, and we'll start asking why. Because I haven't heard from...most people want to see cut spending in Washington. But on what? Not acceptable, can't cut it on this. We can start looking at their budget now, too because we brought the federal delegation into our body. To the Republicans in this delegation, let's start talking about the Governor. Is that what we want to do? Do we want to degrade this body down to that? Because this bill is truly a statement about putting people back to work. That's what it is. That's what they decided at the federal level, and that's what the bill's about. The Commissioner's reacting to that. It has to be in place by October 1<sup>st</sup> We heard four hundred people a month not showing up. It comes to be between \$6 and \$8 million not accounted for a year. Yet we're going to turn this around and bring it up to our congressional delegation and blame them. Remember this, you're blaming them on putting people to work. That's what you're blaming them on, because that's what this is about. I appreciate your support.

SENATOR CLEGG: Thank you. Senator Morse wasn't the only one who was going to stand up and make a statement about picking on the federal delegation. I've heard today that we've spent \$10 to \$14 million on REAL ID. I didn't know that study committee was going to cost that much money, 'cause that's all we voted for. Every time somebody doesn't like something around here, they bring up these huge numbers that they can't verify, they can't prove. Hundreds of thousands of dollars for this. Hundreds of thousands...how much money have we gotten for Homeland Security from the federal government? I'll stand up and complain about that because that was our delegation that made sure we got taken care of up here. So it's not like they sit there and do nothing. This bill is what most people in the country have asked for. Let's stop paying people to stay home. Let's start spending some money to put them back to work. Here's the start. I congratulate the federal government for actually having the guts to cut spending and help people go back to work, 'cause sitting at home getting federal money, sitting at home getting state money,

isn't a right that you're born with. It's the right of the taxpayer to help people who need it. And it's our right to put people back to work when they're able. Thank you, Mr. President.

SENATOR BRAGDON: I move the question.

SENATOR GATSAS (In the Chair): One more speaker. Senator Hassan.

SENATOR HASSAN: Thank you, Mr. President. I know our federal delegation works hard, but I'm not very worried about their ability to take care of themselves or to defend themselves. I am much more concerned about the ability of men and women who have great difficulties in life and who are challenged by life, and are, according to the federal government, as represented by our federal delegation, as well as many of our other policy experts in this state, the hardcore unemployed. Are there people who abuse any system humankind creates? You bet there are. And were many of us proud with the reforms that we put together in the mid 1990s to try to provide more incentives to get people back to work? Of course we were. Because every human being I know likes to be self-reliant, and that requires that they work. But to scapegoat people who are truly in need of our assistance and truly unable to work, in the middle of a political argument, is unfortunate and unfair. I don't doubt that our federal delegation thinks it's doing the right thing when it votes the way it does, nor do I have any interest in talking about whether what they did at the federal level is right or wrong. Today, in this chamber, we're supposed to be talking about whether a bill before us that very few of us understand or have seen, which will have impacts on people, for instance, like a constituent of mine who suffers from depression, has a child. When she was scheduled for an appointment at her local welfare office that she could not attend because her school had scheduled a multidisciplinary special ed appointment previously at the same time, she sent a certified letter to the welfare office. She called them and explained why they couldn't come. They still cut her benefits off for not appearing. This was an excellently responsible human being who is working, who still was penalized because of a lack of communication even though she did exactly what all of us would have done in her same circumstance. I'm not suggesting that everybody falls into her category, but I am suggesting that she, as does every citizen of this state, deserves our respect on this Senate floor. Thank you.

SENATOR BURLING: I have a question of Senator Morse if he'd yield?

SENATOR MORSE: Yes, Senator.

SENATOR BURLING: Senator, you and I are going back and forth about how federalism works. And I'm looking at this document I was handed about six hours ago, the "TANF in a Time of Change Opportunity for Positive Change". I'm looking at page 20. I'll quote it very quickly. "Preliminary cost estimates indicate that new childcare costs may total \$3.5 million per year. TANF reauthorization increases childcare funding to New Hampshire about \$750. States must find new general fund match monies to access these federal funds."

SENATOR MORSE: \$750,000.

SENATOR BURLING: I'm sorry. Did I misspeak?

SENATOR MORSE: Yes.

SENATOR BURLING: I meant to say \$750,000. Have we done that?



SENATOR MORSE: The Commissioner has actually come up with a million and a half, which I stated earlier on. That \$750,000 is just for child care alone. He's done that through his Department. I can go on about this all day on the financial side...

SENATOR BURLING: Well, then, may I ask my ultimate question, the question I started with? Why don't we just let the Commissioner handle this problem within his own rules, his rulemaking authority and his current budget? Why do we need a fifteen-page bill?

SENATOR MORSE: Senator, the Commissioner told us what he needed. That's what we're trying to accomplish in Finance, but I don't see anything wrong with that. We did that all spring. I still ask this question, if there truly was a person that was denied...if somebody called the Commissioner, did they? Did they respond? You know, these things, I don't hear them. I don't hear where he's not doing his job. I really think that, you know, the proof's in the pudding. If he's done something to hurt the people of New Hampshire, like you said earlier, Senator Burling, I think we're going to hear about it.

SENATOR CLEGG: Question of Senator Morse. Senator Morse, the question was asked of you why we need a fifteen-page bill in front of twenty-four Senators instead of having the Commissioner go before JLCAR. The last I knew, JLCAR had ten people, and only five were Senators. So isn't it a better representation to have twenty-four vote on this instead of just five of us?

SENATOR MORSE: Yes.

SENATOR CLEGG: Thank you.

**A roll call was requested by Senator Fuller Clark.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**The following Senators voted No: Burling, Green, Gottesman, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**Yeas: 15 - Nays: 8**

**Adopted.**

**Ordered to third reading.**

**HB 1690**, relative to renewable energy. Finance Committee. Ought to pass with amendment, Vote 5-1. Senator Morse for the committee.

**Senate Finance**

**May 2, 2006**

**2006-2159s**

**10/04**

### **Amendment to HB 1690**

Amend the bill by replacing all after section 2 with the following:

3 New Section; Electric Utility Restructuring; Wood-Fired Generation Project. Amend RSA 374-F by inserting after section 8 the following new section:

374-F:9 Wood-Fired Generation Project. By July 1, 2006 the commission shall open a docket to determine whether it is in the public interest to provide power of up to 60 megawatts to standard default service customers of one or more electric utilities and/or to a renewable default

service option available to customers of one or more electric utilities, from generators that employ renewable wood-fired energy, and that are proximate to or benefiting the northern forests of the state. The commission shall issue a request for proposals (RFP) not later than August 1, 2006. The commission and its staff may consult with the department of resources and economic development in developing an RFP and in the analysis of responses, with regard to the possible economic benefits of proposals. The commission may employ an independent consultant with relevant expertise to assist in the preparation, issuance, or evaluation of an RFP. The commission shall make a determination as to which, if any, proposal is approved as being in the greatest public interest. In determining the public interest the commission shall seek a sound balance between the interests of default service retail customers and the economic, energy, and environmental interests of the region and the state, including costs, benefits, and risks, provided the ratepayer's participation shall not exceed 50 percent for both the cost and benefit of a proposal. Within 30 days after a final determination by the commission of which, if any, proposal is approved, the fiscal committee of the general court may act to disapprove and cancel the commission determination. If no such action is taken with notice filed at the commission within such 30 days, the commission is authorized to issue such orders as are necessary to support implementation of the approved proposal. Recovery of costs for the selected proposal, if applicable, shall be limited to standard default service customers or renewable default service customers, or through bilateral agreements with the state or other customers, and not through transmission and distribution rates or stranded cost charges, or from any customers once they cease to take default service, provided that the entities providing the foregoing services shall have the obligation to purchase the power under the selected proposal or proposals. Any agreement with the state to purchase such power directly or through renewable default service shall be subject to prior approval of the fiscal committee of the general court. Notwithstanding other provisions of law to the contrary, any electric utility may build, acquire, or contract for energy and capacity for such wood-fired generation assets described in this section, subject to participation in the RFP, approval by the commission, and the cost recovery limitations stated herein.

4 Effective Date. This act shall take effect upon its passage.

**2006-2159s**

### AMENDED ANALYSIS

This bill:

I. Authorizes electric utilities to offer a renewable energy default service option.

II. Authorizes the use of energy efficiency system benefits charge funds for renewable energy programs.

III. Requires the public utilities commission to open a docket relating to power from generators employing wood-fired energy.

SENATOR MORSE: Thank you, Mr. President. I move House Bill 1690 ought to pass with amendment. This bill authorizes electric utilities to offer a renewable energy default service option and the use of energy efficiency system benefits charge funds for renewable energy programs. The committee amendment took hard work, negotiation and cooperation of many people. While different approaches were offered, the end goal is the same - to boost the economy of the north country after the closing of the two paper mills and to allow for major economic development

in the state by creating jobs. It will also help diversify energy resources by increasing renewable energy. It was the committee's concern, however, that this happens in a way that does not burden the ratepayer. To be responsive to the needs of the north country, this amendment allows the commission to open a docket by July 1, 2006 to see if there's an interest of the public to provide power from generators that employ renewable wood-fired energy and requires that any RFP to be offered be completed by August 1 of this year. It also calls for a 50/50 ratio for both costs and benefits to be shared. After a determination is reached by the commission, it is subject to final approval by the Fiscal Committee. The Finance Committee asks for your support on the motion of ought to pass with amendment. Thank you.

### **Recess.**

### **Out of recess.**

SENATOR GALLUS: Can we speak to this?

SENATOR GATSAS (In the Chair): You may speak to this, Senator.

SENATOR GALLUS: Thank you very much, Mr. President. I'd like to speak to this amendment and the entire bill. Basically, you all know the plight of the north country, I've whined enough, but I'm going to tell the story one more time. I do want to thank Senator Odell and also Senator Burling for pushing my cause forward with this wood-fired plant for the city of Berlin and the north country. Our average family income is somewhere about \$30,000 below the rest of the state in Coos County. The Berlin property tax rate, one of the highest in the state. The Department of Employment Security recently put out a report that shows, in the next six years our fastest growing jobs will be 1) cashiers, 2) fast food restaurants. As you all know, we've lost our highest paying jobs in the north country. The jobs at the mill in Groveton, New Hampshire, and the jobs that will close tomorrow morning in the city of Berlin. We have no highways. We feel neglected by my colleagues here in the Senate. We feel neglected by the rest of the state. We don't enjoy this so-called "New Hampshire miracle" that the border towns and cities enjoy in the southern section of the state. We have an economy basically in the north country that has been devastated. At the turn of the century, the city of Berlin had 26,000 people. We're down to about 10,000. The only county in the state of New Hampshire without migration. I sit in committees here and I realize, you know, the economic committees and reports where we have the highest per capita income in New England perhaps, and in the southern section of the state, something like \$57,000. That's not what we have in the north country of New Hampshire. "The fastest growing job state in New England". I always wonder where is that because it certainly is not in the north country of New Hampshire. All we were trying to do with this wood-fired energy plant...we were lucky enough to have the Public Service Company of New Hampshire come to town and say, "We're willing to build this." What that does for me is protect some of my jobs that I have left in the north country, logging jobs that have been in the north country for some one hundred years, plus. Those jobs are very important to me. We've lost, with the closure of both those mills in the north country, a total of 1.2 million tons of wood a year that was used up by those two...those two properties. This particular plant would chew up only 400,000 tons of wood, which is a big help. My loggers can hold on. They can wait for another two or three years 'til this plant is completed. I've talked to some north country bankers who are, you know,

ready to foreclose on some of the smaller loggers, take back the skidder or the timber jack or their equipment. They don't want to take that equipment back because they're going to get nickels on the dollar. They're hoping this plant comes along, because if it does, they can keep these fella's alive because they will see some light at the end of the tunnel. We've had a lot of conversation. We had conversation about the ratepayers and who pays. My concern is for those jobs in the north country that I'm going to lose. A logging industry that's already been devastated. In the course of my education on power and wood power, I've realized that, you know, this is a great way to diversify our energy base. You know. Where were we in the 70s? Where were the feds in the 70s when we had the oil embargo? You know, we're sitting here today driving...I see a few big SUVs out there, and we're having fuel problems again with gas at \$3 a gallon. Don't you believe that long range planning, somewhere along the line we have to diversify our energy base? Who's going to pay? Of course the ratepayers are going to pay. Do we need wind energy? Absolutely. Do we need wood energy and bio-mass? Of course we do. We need to diversify our energy base. I think I've told a few people, I read an article in *Forbes Magazine* a while back, and basically what they said was that, you know, fossil fuel...I had a writer there who said that fossil fuels will basically run out in about 2029. Now, I'm not sure if that's true or not true, but we know we are using up our fossil fuels. We have a chance to diversify our energy base to make sure that when grandma switches on the lights twenty years down the road, that the lights go on. There's a lot at stake here, but there's more at stake for the north country of New Hampshire. We need a few of those jobs remaining in the north country. I would ask, Mr. President and members of the Senate, that you vote down this amendment, which really does nothing to help us. One of the other little tidbits of information that was thrown around while we were researching this particular project, and Senator Odell can confirm this, that when we talked to the PUC, there was a lot of mention that the wood project at Schiller Station, should be going out into the future, and I think Senator Letourneau was there. Going out into the future that plant alone should actually reduce costs for energy users because of the renewable energy credit. And this plant in Berlin would do the same thing. Are there any guarantees? Of course not. But this project is going to be overseen by the Public Utility Commission. Public Service, we need this particular bill because Public Service is the only provider that can't go north. We've heard all this talk about the merchant guys going north. All these merchant people out there. Well I sat in the House meeting, the House hearing, and basically the Chairman of the committee asked each and every one of those merchant providers that testified, if they were willing to go to the north country. And it was like a resounding "no", "no", "no". They were interested in the project, not necessarily in the north country. One provider said they were interested in going to the north country, so I talked to the city manager in Berlin who had talked to this particular company, who said, "Oh, yeah, they were interested in coming because there was such a glut of wood and they would be able to buy it relatively inexpensively." They didn't want to go and compete in an open market and give a fair price for wood which is what my loggers need to stay in business. So all I'm asking is that we turn down this particular amendment, which does nothing to help the city of Berlin, and we vote through the original bill as we sent it to the Senate Finance Committee. I'll tell you that, from here, between when the bill left here to Senate Finance and back here, I have seen ten

to twelve different amendments. All I ask is that you look deep in your souls and say what am I doing here. Am I helping the people of New Hampshire? Am I helping those poor people of the north country of New Hampshire? Otherwise, Senator Gallus is just wasting his time, if you guys are going to continue to forget the north country. And I really appreciate the time you've put in, the time you've spent here today, slaving, for \$100 a year. I've personally had a great experience with each and every one of you, and I appreciate the work you do for the state of New Hampshire, but you have to look sometimes, deep down inside and say "what are we doing here today and what is this bill truly about, and is it going to help anybody in the north country of New Hampshire?" Of course it's going to. We have nothing else coming there. We've had, out migration, we have prisons. I had somebody mention, "Well, we gave you a state prison." Well guess what? Goffstown didn't want it. Neither did Bedford or Amherst, or any of the towns in the southern section of the state. We were glad to have it. It's been a great addition to the north country of New Hampshire. If we had not had that prison, the last time the mill closed, and this time, we'd have been in a much terrible, a much more terrible situation than we are in today. So what I'm asking you is to remember the neighbors you have in the north country of New Hampshire, and try to help support this bill in its original state. Vote down this amendment. I'll accept whatever you give me here today, because you win some and you lose some. But each and every one of you has to examine your vote here today and say, "Did I do the right thing?" And I ask you to do the right thing. Vote down this silly amendment. Senator Odell had a great amendment we were going to offer, but we just don't seem to have any support, and I'd like the original bill to pass. If you can do that for me, I thank you, and I ask you to look deep inside your souls. Thank you, Mr. President.

SENATOR ODELL: Thank you, Mr. President. I obviously was anticipating a spirited debate here on lots of different issues affecting the potential power plant in the north country. My simple goal was to make sure that the only company in the United States that's prohibited from building a power plant in New Hampshire is Public Service of New Hampshire. That's right. Our law says they cannot put up a generating facility without us providing the enabling legislation and making it possible for them to work with the Public Utilities Commission. The support's not here for that, so instead, I'm going to take a couple of minutes and just tell you about my relationship with John Gallus and economic development 'cause he came down with Mayor Bob Danderson in 2002 and they went through Claremont, and they saw what had happened when the heart and the guts of an industry is taken away. And that's what they're facing in the north country. One million square feet of unoccupied manufacturing space. A soup kitchen that opened the week after the Joy Manufacturing Company closed, what about a quarter of a century ago, Senator Burling? We had high paying jobs. We had jobs with benefits. We had a vital, vibrant community. And for economic factors apart from where those people live and where they worked, the heart of that industrial belt was taken away. John Gallus came down and we toured the city. We went to American Paper Company, a company that operates twenty-four hours a day, seven days a week, all year long. Closing a plant where? California. Why? Because of rolling blackouts. Shutting their company down. You don't shut down paper companies when there's not enough power. And they did close those plants in California. Fortunately, they're still operating in Claremont and other

places in Vermont. But significantly, we also went over to the Tambrands building, the largest single unoccupied manufacturing space in Claremont. Proctor and Gamble had bought Tambrand, and shortly thereafter that, after they then merged their facilities and activities with their plant in Maine, devastated our community once again. So when John came down with Mayor Bob Danderson, we saw it as it was. And later on, I got elected to the state Senate, and I was fortunate enough to be put on the Senate Finance Committee. And John Gallus said, "We gotta do something about Jobs Grants", and he had an idea. And I salute Senator Green, the Finance Chairman at the time, and Senator Eaton and the other members of Finance Committee, 'cause they put in that budget \$600,000. And yes, I worry about ratepayers and what they pay for a power plant, but that's because we're dealing with regulated business. I won't get into the detail we would have otherwise. I believe the House, and I won't say anything too loudly, given that the Speaker and the Majority Leader are here. The Governor wasn't for it, but our team, our Senators, stood up for the north country, because that money, the \$600,000 Jobs Grants was strictly for Coos County and Sullivan County. It wasn't just for jobs 'cause, we have low unemployment in Claremont. You know what the highest percentage of the population where they work? Just like John was saying, in restaurants without tablecloths. You know what that means? Fast food. How would you like to think about a career in fast food because that's the only job available? We have one of the lowest unemployment rates in the state of New Hampshire. Lots of statistics that we have that are really high. Unfortunately, they're all the wrong ones. People on Medicaid, teenage pregnancy, on and on and on. You tear out the heart of the businesses in a community, in a region, you devastate them. Thanks to this Senate though, that Job Grants Program, those job grants were structured based upon the hourly wage that would be paid, went to keep a company called "Customized Structures" in Claremont. When you go up on 89 and you see these virtually houses coming down the road, they're made in Claremont now. A former business that was owned by some entrepreneurs, it grew and grew, and then it was sold to a big finance company. And the day that I took a tour with the Commissioner of Economic Development...Resources and Economic Development, the boys from Merrill Lynch were there and a whole bunch of them all slicked down, big ties, the whole deal. They could care less where that plant was. They kept it there in part, not totally, because of the fact that the state of New Hampshire was showing visible interest in keeping them there. That Job Grants Program was essential to Customized Structures staying in Claremont. Now we look at the north country. We're not asking for a Jobs Grant Program. We're looking for one company, the only company in the United States prohibited from building a power plant up there. Public Service of New Hampshire, our own domestic company, being prohibited from going there. And we just want a nice simple way to have them go there. I understand that we're not going to be successful, but I will tell you public policy can change the lives of people when it affects their economy, the economy that surrounds them. We have two, Coos the poorest county in the state, Sullivan County is the second. We're both struggling. We're thankful and appreciative with what was done here. And I hope that within this month, we find a way to allow all interested companies the opportunity to look at putting a power plant in the north country. And I salute John Gallus for what he's done for his people, and the struggle that we've gone through in

the last couple of weeks, but hopefully, they'll be a bright day sometime in May for those workers in the woods in the Coos County. Thank you, Mr. President.

SENATOR GOTTESMAN: Yes. Senator Odell, please? Senator Odell, I've been struggling with this issue over the last week or so, and one of the things that has troubled me is I've heard references to companies that were out there, who had claimed that they were going to come, or they had an interest. I think Senator Gallus mentioned this in his comments. But can you, for the record, let us know what companies have expressed an interest or have shown the ability to come to New Hampshire to do this job so that we know that there is going to be some competition on this when the RFP goes out?

SENATOR ODELL: Thank you for the question, Senator Gottesman. I have to be very honest. The company from Baltimore and the company from Boston, and the company from here, there and all over the country come in. No promises, no guarantees, no interest, but boy do they want to slam Public Service of New Hampshire. That's their goal.

SENATOR GOTTESMAN: And just a follow up question. If we went with an RFP and none of these other companies decided to come, then why not Public Service? Why couldn't they respond and make a bid at that point and time?

SENATOR ODELL: I think that that, Senator Gottesman, I think that that would be a very realistic potential. But remember that we have in a sense, a dual system in terms of generation. We have one of the few public utilities that distributes electricity that still is allowed to have generating assets, and that's Public Service of New Hampshire. About 70 percent of their load is generated internally by their own Schiller, Merrimack and whatever. I have the scale of those plants. But then the other company...and so they're regulated and we prohibited them from adding assets. We need to allow them to be in that...to take a look at the north country, very specific to them. Any of the other companies can go up there now. I still struggle with how we can tell any company that they need to put an RF...respond to an RFP, to put a plant in the north country. They don't have to do any of that. They're completely free to do that. They're unregulated. We have no control over them. The only company we control, which we're in a sense sending a message, we really don't want you to go up there, is to Public Service of New Hampshire. I would also tell you another aspect to this. I think that the generating capacity in the state of New Hampshire right now is something like thirty...I'm going to say something like, 3,600 megawatts a year. This would be sixty megawatts. It's 1.3 percent. Plants around the country are huge in comparison, so this isn't for everybody. This is for somebody...I told the Canadian company, I said, "You're from Canada, you know all about wood." "Oh, we don't want to be in that business." They have other interests. They own other generating assets in New Hampshire. Sixty megawatts. Just look at what some of the others are. Something like Seabrook is 1,220. One thousand two hundred and twenty megawatts. Merrimack Station, 430 megawatts; Schiller, 150 megawatts; Newington, 406. So this is a small project. This is not about electricity. This is about economic development, keeping an industry alive. If we don't take action this month in Concord, and you're a guy in the woods, say you're my age, and they say, "Well it's going to take us another year to get around to seeing whether we can get a company to go up there". I'm not much interested in keeping making payments on that timber jack or that logging

truck or whatever it is. That whole economy is going to just start to fizzle down. This isn't about electricity; it's about economic development. And the other companies, not domesticated in New Hampshire, I frankly, don't think they have an interest. They are worried in part that we're going to start getting back into the allowing Public Service to have huge generating assets. Sixty megawatts? Some of their other plants do ten times that.

SENATOR GOTTESMAN: Thank you.

SENATOR CLEGG: Question of Senator Odell if he'll yield?

SENATOR ODELL: Sure.

SENATOR CLEGG: Senator Odell, I thought I heard you say that Public Service wouldn't be able to bid because of the amendment. But I look at the bottom line and it says, "notwithstanding other provisions of law to the contrary, any electric utility may build, acquire, or contract for energy and capacity for such wood-fired generating assets described in this section." Doesn't that allow PSNH?

SENATOR ODELL: Right. But if you've made it uneconomical for them, I think that also says that the risk sharing has to be 50/50. This is a regulated company. On their shareholders side, by regulation, it's a 9.6 percent return. The other half would be on the ratepayers. I think this is a disincentive to them to go there. Nothing's prohibiting them in that particular piece of legislation. But if we don't do something, they don't even get any chance.

SENATOR CLEGG: Okay, but they are prohibited...further question? The law currently prohibits them. Whatever we do has to have something like that in there that allows Public Service to become part of whatever we do?

SENATOR ODELL: That is correct. We have to take a positive step to, in a sense, change the current statutory prohibition on them adding to their generating assets.

SENATOR CLEGG: Thank you.

SENATOR ODELL: Thank you for that question.

SENATOR LETOURNEAU: Thank you for taking the question, Senator Odell. Do we have an idea how much the investment from Public Service already power plant to build a sixty megawatt plant and whether or not that generates any tax base for the north country?

SENATOR ODELL: I am nervous about predicting the costs, because I'll say 75 to 250, \$200 million. I think it's a dangerous thing. But yes, it does create an asset base. And today, in this body, we passed a bill that would allow the city of Berlin, let's say it was to go there, to negotiate to try to give them a little incentive. In other words, to not maybe tax them on the full value. In other words, they could have payments in lieu of taxes. Work out something that would be an incentive for them. So there would be...the spin-off of a high...of a...using a four hundred ton annual of wood fiber in that market place, would have a significant factor that would be all kinds of spin-off benefits. We talk about economic development, we had other issues today that we talked about with the premium tax. You want to see economic development take place really fast, you help put that plant in Berlin.

SENATOR LETOURNEAU: Thank you.

SENATOR ODELL: Yeah. Thank you for the question.



SENATOR BURLING: Very, very quickly. I think for all of us who have been intimately involved with this process, there's a feeling of having put your shoulder to the old cart and shoved through a mud hole, and every inch that you go forward, somebody puts another keg into the cart. This is a critical piece of work that we set out to do. I do not agree with my colleague from the north country. I think the amendment is a place to start. But whatever we do, let's get a bill into Committee of Conference, and let's get going on getting the final negotiations together. This is important. Senator Clegg, you asked him exactly the right question. This amendment allows PSNH to participate should they choose to do so. I have watched companies move in and out of this process like sharks coming in for the kill and it is incredible. You think one day you have this nailed down. You've got language that gets them all. The next day, whoop. What happened? Well, it's only if we stay serious and together, and try to push this forward. This language in the amendment, was two steps back trying to go forward. I intend to vote for it. Whatever. I want Berlin to have a chance at this power station. I think we all do. We ought to find a way to come together.

SENATOR LARSEN: Of Senator Burling.

SENATOR BURLING: Yes.

SENATOR LARSEN: Senator Burling, I received an email from a concerned operator of a utility in this state, who questioned...asked me a question I couldn't answer, and I wanted to ask it of you. The question is, under this bill, would it be lawful and appropriate for a distribution utility to reassign the obligation for its renewable purchase to those companies who are supplying default service for the distribution utility's customers?

SENATOR BURLING: I believe under this legislation it is entirely possible that that kind of result could be ordered by the PUC. We're talking about merchant generators, we're talking about transmission only companies, and we're talking about PSNH. Some of the transmission only companies want to know that they're not going to be drawn into this unwillingly. It will be possible under the amendment language that we are about to vote on, for those companies to persuade the PUC that they don't have to participate in this and to transfer their obligations to an acquire default service to somebody else. Yes, that is possible.

SENATOR LARSEN: Further question? If we pass the bill without this amendment, which puts us back to the original House Bill 1690, is the answer still the same?

SENATOR BURLING: In all candor, I don't know. At each stage in the amendment process we've been through, we have acquired a broader window of opportunity for multiple companies and we have, to a certain extent, acquired more power in the PUC to fine tune, through the RFP process, the end result. So I think the amendment language is better than the original bill, but that's just my opinion. Let's just vote and do it.

SENATOR LARSEN: Thank you.

SENATOR MORSE: Thank you, Mr. President. For a moment there, I thought it was Friday and you were going to do another prayer.

SENATOR GATSAS (In the Chair): It's Thursday and we're still going to do a prayer.

SENATOR MORSE: To my colleague in Berlin, where I joke about buying Berlin someday, and "otta pass". But we saved the dam. We've taken a dike. An ATV Park. I know one day we helped Peggy. I know you've asked for that. I know the cost of this electric plant, in one conversation, went from \$200 million down to \$75 million. I honestly believe, on a serious note, and I believe what Senator Burling said was right. We should pass this amendment. We should pass this bill, and we should get to Committee of Conference and do what needs to be done. I don't think anyone here doesn't want to support Berlin.

**The question is on adoption of the committee amendment.**

**A roll call was requested by Senator Gallus.**

**Seconded by Senator Green.**

**The following Senators voted Yes: Johnson, Kenney, Boyce, Burling, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: Gallus, Green.**

**Yeas: 21 - Nays: 2**

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

SENATOR GALLUS: Thank you very much, Mr. President. Senator Green, I'd like to thank you for voting with me. One thing I failed to mention earlier. I did want to thank the *Concord Monitor* for their editorial today. It says, "State must help Berlin in its new time of need." And this particular vote that we just took on this amendment really is not going to help Berlin, I assure you of that. You know, it's a feel good thing for you all to vote yes, saying we're sending it to a Committee of Conference. It doesn't help John. It doesn't help the city of Berlin. But, I did want to thank them for this article because I didn't realize just how poor and sad and how bad off we really are in the city of Berlin. And I wish a few of you would have read this article before the vote. Thank you.

**The question is on the adoption of the bill as amended.**

**A roll call was requested by Senator Bragdon.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Johnson, Boyce, Burling, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: Gallus, Kenney, Green.**

**Yeas: 20 - Nays: 3**

**Adopted.**

**Ordered to third reading.**

**HB 1767-FN-A**, authorizing the state acquisition of real estate destroyed in the October 2005 floods, establishing a commission to determine the appropriate use of the property, and making an appropriation therefor. Finance Committee. Ought to pass with amendment, Vote 8-0. Senator Odell for the committee.

**Senate Finance**  
**April 26, 2006**  
**2006-2079s**  
**04/10**

**Amendment to HB 1767-FN-A**

Amend the bill by replacing all after the enacting clause with the following:

1 Acquisition of Real Estate Damaged or Destroyed in October 2005 Floods. Pursuant to RSA 124, the commissioner of the department of transportation with the advice and consent of the executive council, shall purchase, on behalf of the state, the property located in Alstead, Langdon, and Walpole that was severely damaged or destroyed in the October 2005 floods. Such property shall be purchased through the department of transportation in accordance with state law and at the pre-flood assessed value less the total amount of financial aid that the current property owner received from any other source, such as insurance payments or state or federal disaster assistance. Nothing in this section shall require a property owner to sell his or her property. The property owner also may elect to retain a life estate in any portion of the property.

2 Appropriation. The sum of \$2,800,000 for the biennium ending June 30, 2007, is hereby appropriated to the department of transportation for the purpose of purchasing property pursuant to section 1 of this act. Such moneys shall be nonlapsing and continually appropriated to the department of transportation for the purposes of section 1 of this act. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

3 October 2005 Flood Relief; Grants, Gifts, or Donations. The commissioner of the department of transportation is authorized to accept and expend public sector and private sector grants, gifts, or donations of any kind for the purpose of purchasing property pursuant to section 1 of this act. Any moneys collected shall be nonlapsing and continually appropriated to the department of transportation for the purposes of section 1 of this act.

4 Commission Established. A commission is established to determine the appropriate public use of flood-damaged property purchased by the state.

I. The members of the commission shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(b) One member of the senate, appointed by the president of the senate.

(c) One member of the board of selectmen from each of the following towns, appointed by that town's board: Alstead, Langdon, and Walpole.

(d) One member appointed by the governor.

(e) The commissioner of the department of transportation, or designee.

II. Members of the commission shall serve without compensation, except that members shall receive mileage at the legislative rate when attending to the duties of the commission.

III. The commission shall determine the appropriate public use of flood-damaged property purchased by the state with general funds appropriated by this act, including the possibility of creating a state park or memorial park, or using the property for other recreational or conservation purposes.

IV. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Four members of the commission shall constitute a quorum.

V. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before December 31, 2006.

5 Effective Date. This act shall take effect upon its passage.

**2006-2079s**

### AMENDED ANALYSIS

This bill:

I. Authorizes the state acquisition of real estate severely damaged or destroyed in the October 2005 floods and makes a general fund appropriation therefor.

II. Authorizes the commissioner of the department of transportation to accept and expend public and private gifts, grants, or donations for the purpose of purchasing property that was damaged or destroyed in the October 2005 floods.

III. Establishes a commission to determine the appropriate use of the property.

**Recess.**

**Out of recess.**

SENATOR ODELL: Thank you, Mr. President. We're onto the bill?

SENATOR GATSAS (In the Chair): The floor remarks on 1767.

SENATOR ODELL: Thank you, Mr. President. We're all aware of the extensive damage that was caused...I move House Bill 1767 ought to pass with amendment. We're all aware of the extensive damage that was caused to the southwestern region of the state during the floods in October 2005. Recently the Senate passed legislation, House Bill 1765, that appropriated \$2.9 million in general funds for the purpose of providing state and local matching funds for the federal disaster grants. The...this legislation dovetails with that. While the funds appropriated in House Bill 1765 helps the towns repair the roads, bridges and to get their infrastructure back in place, this bill addresses another side. As you all know, many residents had homes that were completely washed away, yet still have mortgages outstanding. The lending companies are unable to forgive these loans and the Alstead selectmen have worked with them to address that. This bill was sent over by the House bonded these funds. Rather than pay interest on a one-time expense, this bill appropriates general funds to the Department of Transportation to help those that experienced extreme levels of devastation. This is an important step in sending a message that when there are disasters of this magnitude in our state, should be and will be available to ensure that they get back on their feet. The Department already has the process in place to acquire properties for the purpose of road building and expansion. This makes funds available to the Department to purchase those properties that are no longer existent, with the requirement that no permanent structures be built there again. This is a good way to help all the Alstead residents who experienced great devastation and hope you will support the com-

mittee recommendation of ought to pass with amendment. Thank you, Mr. President. And, at the appropriate time, Mr. President, I'd like to bring forward a floor amendment that makes a correction in the bill that's before you.

**Amendment adopted.**

Senator Odell offered a floor amendment.

Sen. Odell, Dist. 8

Sen. Morse, Dist. 22

**May 4, 2006**

**2006-2204s**

**05/04**

**Floor Amendment to HB 1767-FN-A**

Amend the bill by replacing section 1 with the following:

1 Acquisition of Real Estate Damaged or Destroyed in October 2005 Floods. Pursuant to RSA 124, the commissioner of the department of transportation with the advice and consent of the executive council, shall purchase, on behalf of the state, the property located in Alstead, Langdon, and Walpole that was severely damaged or destroyed in the October 2005 floods. Such property shall be purchased through the department of transportation in accordance with state law and at the pre-flood assessed value less the total amount of financial aid that the current property owner received from any other source, such as insurance payments or state or federal disaster assistance. Nothing in this section shall require a property owner to sell his or her property.

SENATOR ODELL: Thank you, Mr. President. I'd like to bring forward floor amendment 2204s, and if I may speak to...

SENATOR GATSAS (In the Chair): 2204s has been proposed. You may speak to the amendment as it's being passed out.

SENATOR ODELL: We saw a simple error and I commend the Senator that noted it today about in the bill it had a life trust that would exist. And this was there by error, and so this amendment deletes that part of the bill, and I hope you will support that amendment when you get it. Thank you, Mr. President.

SENATOR LARSEN: I simply rise to applaud the careful Senator from the 12<sup>th</sup>...from Nashua, who is thorough enough to catch such errors and keep us from having to correct them in other more difficult ways. So congratulations, Senator Gottesman, for another fine catch.

**Floor amendment adopted.**

Senator Burling offered a floor amendment.

Sen. Burling, Dist. 5

**May 4, 2006**

**2006-2192s**

**05/04**

**Floor Amendment to HB 1767-FN-A .**

Amend the bill by replacing all after the enacting clause with the following:

1 Acquisition of Real Estate Damaged or Destroyed in October 2005 Floods. Pursuant to RSA 4:29, the governor, with the advice and consent of the council, shall purchase, on behalf of the state, the property located in Alstead, Langdon, and Walpole that was severely damaged or destroyed

in the October 2005 floods. Such property shall be purchased at its pre-flood assessed value less the total amount of financial aid that the current property owner received from any other source, such as insurance payments or state or federal disaster assistance. Nothing in this section shall require a property owner to sell his or her property. The property owner also may elect to retain a life estate in any portion of the property.

**2 Appropriation; Bonds.**

I. The sum not to exceed \$3,400,000, for the biennium ending June 30, 2007, is hereby appropriated to the office of the governor for the purpose of purchasing property pursuant to section 1 of this act.

II. To provide funds for the appropriation made in paragraph I, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$3,400,000, and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payment of principal and interest on the bonds and notes shall be made from the general funds of the state.

3 Commission Established. A commission is established to determine the appropriate public use of flood-damaged property purchased by the state.

I. The members of the commission shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(b) Two members of the senate, appointed by the president of the senate.

(c) One member of the board of selectmen from each of the following towns, appointed by that town's board: Alstead, Langdon, and Walpole.

(d) Two members appointed by the governor.

II. Members of the commission shall serve without compensation, except that members shall receive mileage at the legislative rate when attending to the duties of the commission.

III. The commission shall determine the appropriate public use of flood-damaged property purchased by the state with funds appropriated by this act, including the possibility of creating a state park or memorial park, or using the property for other recreational or conservation purposes.

IV. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Five members of the commission shall constitute a quorum.

V. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before December 31, 2006.

4 Effective Date. This act shall take effect upon its passage.

**2006-2192s**

**AMENDED ANALYSIS**

This bill authorizes the state acquisition of real estate destroyed in the October 2005 floods, establishes a commission to determine the appropriate use of the property, and makes a bonded appropriation to purchase the property.

SENATOR BURLING: Thank you, Mr. President. Mr. President, I move the adoption of floor amendment 2192s. I'll speak if I may while that's

being handed out. The House sent us a bill in which the expense of this particular item was bonded. There are many of us who frankly believe that bonding this is the appropriate way to finance it. It is a singular event. We hope it is a singular event. And bonding it, is frankly, the appropriate way. This is not an ordinary and necessary expense that we expect to see on a regular basis. Of course this will have the effect of freeing up some \$3.4 million that can be used to pay the bills that we've been talking about. The other variation in this amendment is a slight change in the commission. We did put two members of the Senate on this commission so that there could be one from each party, and we did put two members appointed by the Governor. So that is the purpose of this amendment. Bond the expense, slight change in the commission.

SENATOR CLEGG: Thank you, Mr. President. I'd have to reject this amendment just based on the fact that on line nine...I'm sorry, line eight. Oh, it is nine. "The property owner may also elect to retain a life estate in any portion of the property." We just corrected that. If we adopt this, we break it again. So just on that basis, I would urge my colleagues to vote no.

SENATOR MORSE: Thank you, Mr. President. Everyone keeps talking about that line, but if we find out tomorrow morning that that line needed to drive this into a Committee of Conference, let me know, because that line survived all the House process and survived the Senate process in that paragraph. So I agreed to take it out right now because no one in drafting could prove that it needed to stay in; however, I'll find out by tomorrow morning, I'm sure. Having said that, I rise to speak against the amendment because I believe it was the will of the Finance Committee in the Senate, that they wanted to pay with cash on this bill instead of bonding it, and they wanted to turn it into a highway project. It's \$2.8 million in cash, the rest of it is highway funds, which I don't believe would be available for anything else. And, for the same reason that the Senate had its only way of structuring the budget, I'll remind you the Senate took the "ERP" money that was in another piece of legislation, and turned that \$1.5 million from cash into a bond, because the Senate believed that that money should have been bonded along with what we already purchased for "ERP". So, for that reason, I rise against this amendment.

**The question is on adoption of the floor amendment.**

**A roll call was requested by Senator Burling.**

**Seconded by Senator Estabrook.**

### **PARLIAMENTARY INQUIRY**

SENATOR GATSAS (In the Chair): Parliamentary question?

SENATOR GOTTESMAN: Yes, I do have a question. Although I did spot that language that I questioned, I gave no legal opinion as to whether or not I thought it should be in there; however, it is now in this document and we have just taken it out for a particular purpose. Are we to continue on being inconsistent with the language now in this document?

SENATOR GATSAS (In the Chair): Senator, amendment 2192 has been proposed. If you want to vote yes on the amendment, you would vote yes. If you want to vote no, you would vote no. Whatever inconsistency there is, that's up to you.

**PARLIAMENTARY INQUIRY**

SENATOR LARSEN: Parliamentary inquiry?

SENATOR GATSAS (In the Chair): Parliamentary inquiry.

SENATOR LARSEN: If I know that actually there is one family for whom a retaining a life estate might benefit them and that the language in fact was not a mistake, in that it really was not a deal breaker one way or the other, would I be comfortable voting for bonding, knowing that I am freeing up \$3.4 million in general funds?

SENATOR GATSAS (In the Chair): If you're in favor of amendment 2192, you will vote yes. If you are in opposition to it, you will vote no.

SENATOR LARSEN: Thank you.

SENATOR GATSAS (In the Chair): You're welcome.

**The following Senators voted Yes: Burling, Foster, Larsen, Estabrook, Hassan, Fuller Clark.**

**The following Senators voted No: Gallus, Johnson, Boyce, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**Yeas: 6 - Nays: 16**

**Floor amendment failed.**

Senator Kenney was excused for this vote.

**The question is on the adoption of the bill as amended.**

**A roll call was requested by Senator Gottesman.**

**Seconded by Senator Foster.**

**The following Senators voted Yes: Gallus, Johnson, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: None.**

**Yeas: 22 - Nays: 0**

**Adopted.**

Senator Kenney was excused for this vote.

**Ordered to third reading.**

**STUDY COMMITTEES**

SENATOR GATSAS (In the Chair): We're going to do the study committees. Okay? And the process is going to be this. I will tell you that, if there is a committee amendment that needs to be voted down out of the jacket, in the process that we're at, the committee amendment will have to be voted down on House Bill 1334. Senator Flanders then will offer an amendment that has...and everybody had these this morning...will offer an amendment with the attached bills for the study. Okay? Alright, we'll give it a try and, if it's wrong, we'll do it again. We've been doing a lot of things a few times today and we're going to...what time is it? Alright, we got an hour. We might be able to get out of this without stopping the clock.

**POINT OF ORDER**

SENATOR HASSAN: Point of order?

SENATOR GATSAS (In the Chair): Point of order, Senator Hassan?



SENATOR HASSAN: Thank you. I just wanted...we're going to do 1334 in the manner that you just described, then we will move on to each of the separately titled bills. Is that correct?

SENATOR GATSAS (In the Chair): Senator Hassan, I'll go through each one to make sure that we are doing the same thing.

SENATOR HASSAN: Okay. Thank you.

SENATOR GATSAS (In the Chair): Alright? Thank you.

### **MOTION TO REMOVE FROM THE TABLE**

Senator Barnes moved to have HB 1334 removed from the table.

#### **Adopted.**

**HB 1334**, establishing a committee to study the effect on the unemployment compensation trust fund of employers with negative balance separate accounts.

#### **The question is on the adoption of the committee amendment (#1480).**

SENATOR FLANDERS: I move that floor amendment 2086...

SENATOR GATSAS (In the Chair): No, we need to vote down the committee amendment. So the motion is...

SENATOR FLANDERS: To vote down the floor amendment #2086s. No.

#### **Amendment failed.**

Senator Flanders offered a floor amendment.

Sen. Flanders, Dist. 7

**April 27, 2006**

**2006-2086s**

**05/09**

### **Floor Amendment to HB 1334**

Amend the title of the bill by replacing it with the following:

**AN ACT** establishing a committee to study certain issues related to banks, business, and insurance.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study certain issues related to banks, business, and insurance.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Two members of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house of representatives.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall study the following issues:

I. The effect on the unemployment compensation trust fund of employers with negative balance separate accounts.

II. The possibility of expanding business tax credits to enhance research and development by extending the carry-forward provision for the business enterprise tax credit.

III. The effect of the costs of health insurance on public employment contracts.

IV. The cost and benefit of eliminating the requirements for group health insurance carriers and stop-loss writers to provide an option to covered employees and their dependents to purchase an individual health insurance policy, called a conversion policy.

V. Mandatory insurance coverage for the costs of early intervention services for children from birth to 36 months.

4 Chairperson. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2006.

6 Effective Date. This act shall take effect upon its passage.

**2006-2086s**

#### AMENDED ANALYSIS

This bill establishes a committee to study certain issues related to banks, business, and insurance.

SENATOR FLANDERS: I have a floor amendment 2086s.

SENATOR GATSAS (In the Chair): 2086s is being proposed. Will you speak to your amendment?

SENATOR FLANDERS: Briefly, this sets up a study committee, establishes a committee to study certain issues related to all of the banks business and insurance committees. It amends the bill by replacing all after the enacting clause with the following, which establishes a committee, who the committee is, and what we are to study.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

#### MOTION TO REMOVE FROM THE TABLE

Senator Bragdon moved to have HB 1214 removed from the table.

**Adopted.**

**HB 1214**, establishing a study committee to identify and assess community-based, educational and social/human services programs that serve families with children 8 years old and younger.

**The question is on the committee report of ought to pass.**

Senator Bragdon offered a floor amendment.

Sen. Bragdon, Dist. 11

**April 27, 2006**

**2006-2088s**

**04/09**

#### Floor Amendment to HB 1214

Amend the title of the bill by replacing it with the following:

AN ACT establishing a committee to study certain educational and social service issues.

Amend the bill by replacing all after the enacting clause with the following:

1 Committee Established. There is established a committee to study certain educational and social service issues.

2 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Two members of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house of representatives.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The committee shall:

I. Identify and assess all community-based, educational and social/human services programs that serve families with children 8 years old and younger. For each program, the study committee shall identify:

(a) The entity responsible for administering and funding the program, such as a mental health center, hospital, church, school, or state or local government agency, and an indication of whether the responsible entity is private or public, and its source of governance or statutory authority, if any.

(b) The program's stated mission and whether the program's focus is primarily education, prevention, intervention, or therapy.

(c) Funding sources, and an indication of whether the program is a for-profit program or a nonprofit program.

(d) Eligibility criteria for the program.

(e) The number of parent and child participants in the program.

(f) The program's location and service area.

(g) The program's methods of evaluation and accountability.

(h) Any additional data that the committee deems necessary.

II. Use the information identified in paragraph I to assess the degree to which existing programs are able to meet the needs of families with children 8 years old and younger and to increase awareness and understanding of existing programs.

III. For the purposes of paragraph I, solicit information and testimony from such organizations and individuals as may assist the committee in the performance of its duties, including but not limited to the following:

(a) The division for children, youth, and families, department of health and human services.

(b) The division of family assistance, department of health and human services.

(c) The division of public health services, department of health and human services.

(d) The department of education.

(e) Family Support NH.

(f) Early Learning NH.

(g) The New Hampshire Association for the Education of Young Children.

(h) Child and Family Services.

(i) Community Bridges.

(j) The New Hampshire Council of Churches.

(k) The university system of New Hampshire.

(l) The New Hampshire Children's Trust Fund.

IV. Study the critical shortage in speech language services as it relates to public schools in New Hampshire.

V. Study the criteria for certification as a speech language specialist in New Hampshire.

4 Chairperson. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section.

5 Report. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2006.

6 Effective Date. This act shall take effect upon its passage.

**2006-2088s**

### AMENDED ANALYSIS

This bill establishes a committee to:

I. Identify and assess community-based, educational and social/human services programs that serve families with children 8 years old and younger; and

II. Study the shortage in speech language services and the criteria for certification as a speech language specialist.

SENATOR BRAGDON: Mr. President, I would move...good Lord, I can't even seen tonight anymore, 2088.

SENATOR GATSAS (In the Chair): Floor amendment 2088 has been proposed. If you'd speak to your amendment.

SENATOR BRAGDON: If I may speak to my motion? My motion establishes a committee to study certain educational and social service issues.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

### MOTION TO REMOVE FROM THE TABLE

Senator Bragdon moved to have HB 1146 removed from the table.

**Adopted.**

**HB 1146**, establishing a committee to study renewable portfolio standards.

**The question is on the committee report of ought to pass.**

Senator Odell offered a floor amendment.

Sen. Odell, Dist. 8

**May 2, 2006**

**2006-2114s**

**03/09**

### Floor Amendment to HB 1146

Amend the title of the bill by replacing it with the following:

AN ACT establishing a commission to study certain energy and environmental issues.

Amend the bill by replacing all after the enacting clause with the following:

1 Commission Established. There is established a commission to study certain energy and environmental issues.

## 2 Membership and Compensation.

### I. The members of the commission shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

(b) Four members of the house of representatives, appointed by the speaker of the house of representatives.

(c) Three members appointed by the governor.

(d) Two representatives from the New Hampshire department of environmental services, appointed by the commissioner of environmental services.

(e) One representative appointed by the New Hampshire Municipal Association.

(f) Two academic representatives from the university of New Hampshire at Durham with expertise in wastewater treatment, appointed by the university.

(g) One representative from the office of energy and planning, appointed by the governor.

(h) Two representatives from publicly owned treatment facilities/works, appointed by the New Hampshire Water Pollution Control Association.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

### 3 Duties. The commission shall:

I. Review the state's energy policies and make recommendations for appropriate changes necessary to accommodate the changing energy environment in New Hampshire.

II. Review the divestiture of PSNH generation assets, and the policies for supply.

III. Study water tests conducted by the state laboratory of hygiene and water test fees collected by the department of environmental services.

IV. Evaluate the need for future additions to existing laboratory tests and equipment and make recommendations for laboratory test fees and distributions to the lab equipment and replacement fund.

### V. Study:

(a) Renewable portfolio standards for electricity suppliers in effect in the United States.

(b) The potential effect of renewable portfolio standards in New Hampshire, including impact on consumers, economic development and job creation, and the environment.

(c) The renewable energy credits program, including any recommendations for the percentage retail suppliers shall possess, the rate of increase over time, and a cap for the price of credits.

(d) Policies ensuring renewable portfolio standards for New Hampshire would be competitively neutral.

(e) Cost reductions and program compliance through achievement of renewable energy goals.

(f) A reporting program for supplier compliance and enforcement and the state's role in the program.

(g) Penalties for noncompliance.

(h) Any other matters the commission deems relevant.

VI. Study the publicly-owned treatment plan needs of New Hampshire. The commission shall also:

(a) Review and study the current capabilities of the existing 85 publicly-owned treatment works operating in New Hampshire.

(b) Identify and summarize current and projected population and industrial growth patterns.

(c) Document effluent criteria identified by the United States Environmental Protection Agency and the New Hampshire department of environmental services.

(d) Identify existing and proposed effluent and toxic reduction technologies.

(e) Make findings regarding potential technological solutions to effluent requirements, using wastewater treatment industry representatives as available.

#### VII. Study:

(a) The federal, state, and local regulatory processes for the siting and construction of commercial wind energy facilities, including the applicability of the site evaluation committee certificate process under RSA 162-H, consistent with the findings and purposes set forth in RSA 162-H:1.

(b) The economic, environmental, and visual effects that such facilities would have.

(c) The effect such facilities would have on the provision of electricity to New Hampshire customers.

VIII. Study whether the state can properly operate secured landfills to be used primarily for the disposal of demolition debris and other items which cannot be recycled, reused, or otherwise found useful.

4 Chairperson. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2006.

6 Effective Date. This act shall take effect upon its passage.

#### **2006-2114s**

#### AMENDED ANALYSIS

This bill establishes a commission to study certain energy and environmental issues.

SENATOR ODELL: Mr. President, I move floor amendment 2114s.

SENATOR GATSAS (In the Chair): Floor amendment 2114s has been proposed. Is there any discussion on the amendment?

SENATOR ODELL: Mr. President, this establishes a committee to study renewable portfolio standards. Thank you.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

#### **MOTION TO REMOVE FROM THE TABLE**

Senator Bragdon moved to have HB 1298 removed from the table.

**Adopted.**

**HB 1298**, establishing a study committee to evaluate disciplinary procedures of the board of medicine.

**The question is on the committee amendment (#1592).**

**Amendment failed.**

Senator Flanders offered a floor amendment.

Sen. Kenney, Dist. 3

**May 2, 2006**

**2006-2112s**

**06/09**

### **Floor Amendment to HB 1298**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a commission to study certain professional, public welfare, and lottery commission issues.

Amend the bill by replacing all after the enacting clause with the following:

1 Commission Established. There is established a commission to study certain professional, public welfare, and lottery commission issues.

2 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

(b) Four members of the house of representatives, appointed by the speaker of the house of representatives.

(c) The executive director of the New Hampshire retirement system, or designee.

(d) One member of the New Hampshire retirement system board of trustees, selected by the chairman of the board of trustees.

(e) The administrator of the New Hampshire judicial retirement plan, or designee.

(f) One member of the New Hampshire judicial retirement plan board of trustees, selected by the chairman of the board of trustees.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall:

I. Evaluate the policies, procedures, and effectiveness of the disciplinary process of the board of medicine under RSA 329.

II. Study:

(a) The effects of rescinding the charter of the New Hampshire Bar Association, including contractual ramifications, distribution of assets, removal and reassignment of duties of officers, and any other effects deemed worthy by the committee.

(b) Matter related to subsequent incorporation of a voluntary bar association.

(c) The collection and deposit of fees paid by attorneys to be licensed to practice law, whether in the general fund or other state fund.

(d) The payment of attorney dues and supreme court fees by state and local governments.

III. Study the feasibility of using unoccupied state-owned buildings as transition homes for 17-year-olds and 18-year-olds who are ready to leave foster care or the youth development center. The committee shall identify any suitable property currently owned by the state and shall assess the feasibility of converting such property to transition homes. The committee shall solicit testimony from agencies, organizations, and individuals with relevant information and expertise.

IV. Study issues related to the inclusion of service as a part-time district court judge in the calculation of the person's retirement benefits.

V. Study the lottery commission's authority to operate and advertise, as well as incentive caps and payout restrictions on prizes.

4 Chairperson. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2006.

6 Effective Date. This act shall take effect upon its passage.

**2006-2112s**

### AMENDED ANALYSIS

This bill establishes a commission to study certain professional, public welfare, and lottery commission issues.

SENATOR FLANDERS: Mr. President, I move floor amendment 2112s, which basically sets up a study committee.

SENATOR GATSAS (In the Chair): Floor amendment 2112 has been proposed.

SENATOR FLANDERS: It sets up a study committee for the ED & A Committee.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

### MOTION TO REMOVE FROM THE TABLE

Senator Hassan moved to have HB 1373 removed from the table.

**Adopted.**

**HB 1373**, establishing a commission to study ways to encourage the proper recycling and disposal of grease trap wastes and to determine ways to develop additional disposal capacity.

**The question is on the committee report of ought to pass.**

SENATOR BARNES: I have a question. Thank you. I am looking at that 1373 and I'm a little foggy on the rest of this. I see Senate Bill 406 underneath that, that's been incorporated into that study committee. Manufacturers' tax on cigarettes.

SENATOR GATSAS (In the Chair): On the section on dams.

SENATOR BARNES: Only the section on dams. That's what I see in bold print.

SENATOR GATSAS (In the Chair): Only the section on dams.

SENATOR BARNES: What are those little question marks in there?

SENATOR GATSAS (In the Chair): Only the section on dams.

SENATOR BARNES: I see a lot of little question marks.

SENATOR GATSAS (In the Chair): That was the study committee in there.

SENATOR BARNES: Thank you, Senator.

Senator Johnson offered a floor amendment.

Sen. Johnson, Dist. 2



**April 27, 2006**  
**2006-2087s**  
**08/09**

**Floor Amendment to HB 1373**

Amend the title of the bill by replacing it with the following:

**AN ACT** establishing a commission to study certain environment and wildlife issues.

Amend the bill by replacing all after the enacting clause with the following:

1 Commission Established. There is established a commission to study certain environment and wildlife issues.

2 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) Two members of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(c) Two representatives of the department of environmental services, appointed by the commissioner of the department of environmental services.

(d) Two members appointed by the New Hampshire Association of Septage Haulers.

(e) Two members of the hospitality industry, appointed by the New Hampshire Lodging and Restaurant Association.

(f) Two members of the wastewater treatment industry, appointed by the New Hampshire Water Pollution Control Association.

(g) Two members with expertise in biodiesel research from the university of New Hampshire, appointed by the university president.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall:

I. Study the need for the operation and maintenance of state-owned dams, the existing funding sources for the operation and maintenance of state-owned dams including the state's hydro-lease program, established under RSA 481:32, and the state dam maintenance fund, established under RSA 482.

II. Develop recommendations for the continued operation and maintenance of state-owned dams and options for funding the state dam maintenance fund.

III. Study ways to ensure the proper recycling and disposal of grease trap wastes.

IV. Study systems for managing grease trap wastes currently used in the United States and Canada.

V. Study the status of the in-state and regional markets available for handling grease trap wastes and methods for future development of in-state disposal capacity.

VI. Study the ability of the department of environmental services to assist municipalities in regard to rules, regulations, penalties, and best management practices for grease trap sizes, cleaning cycles, standards, and pumping.

VII. Study the establishment and enforcement of protection zones for nesting loons.

4 Chairperson. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall

be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2006.

6 Effective Date. This act shall take effect upon its passage.

**2006-2087s**

### AMENDED ANALYSIS

This bill establishes a commission to study certain environment and wildlife issues.

SENATOR JOHNSON: I move adoption of the floor amendment.

**Floor amendment adopted.**

Senator Hassan offered a floor amendment.

Sen. Hassan, Dist. 23

**May 4, 2006**

**2006-2200s**

**08/10**

### Floor Amendment to HB 1373

Amend section 3 of the bill by inserting after paragraph VII the following new paragraph:

VIII. Study the setback requirements for landfills located near rivers.

SENATOR HASSAN: I move the floor amendment to 1373. It's amendment 2200s.

SENATOR GATSAS (In the Chair): Floor amendment 2200s has been proposed. Senator Hassan will you speak to your amendment as it's being distributed?

SENATOR HASSAN: Certainly. We put on the table this morning a study concerning setbacks from rivers for landfills. This simply adds that duty to this study committee established by the previous floor amendment.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

### MOTION TO REMOVE FROM THE TABLE

Senator Martel moved to have HB 1121-L removed from the table.

**Adopted.**

**HB 1121-L**, establishing a committee to study rulemaking and licensure issues relative to assisted living and residential care.

The question is on the adoption of the committee amendment (#1565).

**Amendment failed.**

Senator Martel offered a floor amendment.

Sen. Martel, Dist. 18

**May 4, 2006**  
**2006-2183s**  
**05/04**

**Floor Amendment to HB 1121-LOCAL**

Amend the title of the bill by replacing it with the following:

**AN ACT** establishing a commission to study certain issues related to health and human services.

Amend the bill by replacing all after the enacting clause with the following:

1 Commission Established. There is established a commission to study certain issues related to health and human services.

2 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) Three members of the senate, appointed by the president of the senate, at least one of whom shall be a member of the committee on health and human services.

(b) Four members of the house of representatives, appointed by the speaker of the house of representatives, at least one of whom shall be a member of the committee on health, human services and elderly affairs.

(c) The commissioner of the department of health and human services, or designee.

(d) The attorney general, or designee.

(e) The governor, or designee.

(f) Any members identified in paragraphs II and III.

II. For purposes of section 3, paragraph IV, relative to health care costs, the commission shall include:

(a) The insurance commissioner, or designee.

(b) One member of the Endowment for Health, Inc., appointed by such organization.

(c) One member of the Business and Industry Association of New Hampshire, appointed by such association.

(d) A representative of the insurance industry, appointed by the governor.

(e) One member of the New Hampshire Hospital Association, appointed by such association.

(f) One member of the New Hampshire Medical Society, appointed by such society.

(g) One member of the New Hampshire Trial Lawyers Association, appointed by such association.

(h) Three members of chambers of commerce, one appointed by the speaker of the house of representatives, one appointed by the president of the senate, and one appointed by the governor, all appointed in a manner to provide diverse geographical representation.

(i) A representative of Dartmouth-Hitchcock Medical Center, appointed by the Center.

(j) The director of the New Hampshire Institute of Health Policy and Practice at the university of New Hampshire.

(k) One member of the Retail Merchants Association of New Hampshire, appointed by such association.

(l) A representative of the Professional Firefighters of New Hampshire, appointed by such association.

(m) A representative of the New Hampshire Health Care Association, appointed by such association.

III. For purposes of section 3, paragraph VI, relative to Medicaid reimbursement rates, the commission shall include:

(a) The director of the office of medicaid business and policy, department of health and human services.

(b) A representative of the Home Care Association of New Hampshire, appointed by that association.

(c) A representative of the New Hampshire Health Care Association, appointed by the association.

(d) A representative of the New Hampshire Hospital Association, appointed by the association.

(e) A representative of the New Hampshire Association of Counties, appointed by the association.

IV. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall study:

I. The following issues relative to rulemaking and licensure of assisted living and residential care:

(a) Whether the definitions and description of residential care facilities and assisted living facilities under RSA 151:2, I(e) and elsewhere should be amended to add clarity and better reflect the current delivery of services of such care in New Hampshire.

(b) Whether the commissioner's rulemaking authority under RSA 151:9 should be amended to give the commissioner different or specific instruction regarding the licensure of such facilities relative to levels of license classification.

(c) Whether any additional changes can be made to RSA 151 or any other statute relative to assisted living and residential care that would make the law more effective in providing clarity to consumers and providers relative to such care and the regulation of such care.

II. Factors contributing to rising health care costs including:

(a) Cost shifting associated with federal and state reimbursements.

(b) Cost shifting associated with providing care for the uninsured.

(c) Costs associated with medical malpractice insurance rates.

(d) Regional issues that may affect costs of providing health care.

(e) Hospital new construction costs and overhead costs for the past 5 years.

(f) Hospital new services and overhead costs for the past 5 years.

(g) Other areas that may affect the cost of providing health care.

III. Whether there is a need to conduct a statewide review of each unanticipated fatality and incident of serious injury to incapacitated adults and individuals 60 years of age or older. The commission shall also recommend a methodology for conducting such review.

IV. State Medicaid reimbursement rates, including the methodology for calculating reimbursement rates and a comparison with reimbursement rates in other states. The commission shall also assess whether New Hampshire's reimbursement rates are too low and shall identify the consequences or risks associated with low reimbursement rates. The commission may also recommend changes to reimbursement amounts and to the rate-setting process based on its findings.

4 Chairperson; Quorum. The members of the study commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2006.

6 Effective Date. This act shall take effect upon its passage.

**2006-2183s**

### AMENDED ANALYSIS

This bill studies certain issues related to health and human services, including issues related to assisted living and residential care, health care costs, and Medicaid reimbursement rates.

**SENATOR MARTEL:** Floor amendment 2183s, establishing a committee to study rulemaking and licensure issues relative to assisted living and residential care facilities.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

### MOTION TO REMOVE FROM THE TABLE

Senator Martel moved to have HB 385 removed from the table.

**Adopted.**

**HB 385**, establishing a committee to study the adequacy of current substance abuse treatment available in the state prison system.

**The question is on the committee report of ought to pass.**

**Senator Martel offered a floor amendment.**

**Sen. Martel, Dist. 18**

**May 4, 2006**

**2006-2189s**

**05/01**

### Floor Amendment to HB 385

Amend the title of the bill by replacing it with the following:

**AN ACT** establishing a commission to study certain issues related to health and human services.

Amend the bill by replacing all after the enacting clause with the following:

1 Commission Established. There is established a commission to study certain issues related to health and human services.

2 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) Three members of the senate, appointed by the president of the senate, at least one of whom shall be a member of the committee on health and human services.

(b) Four members of the house of representatives, appointed by the speaker of the house of representatives, at least one of whom shall be a member of the committee on health, human services and elderly affairs.

(c) The commissioner of the department of health and human services, or designee.

(d) The attorney general, or designee.

(e) The governor, or designee.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall study:

I. The adequacy of current substance abuse treatment available in the state prison system.

II. The feasibility of establishing an electronic tracking system for sales of pseudoephedrine base and ephedrine base products or otherwise controlling or restricting the sale of such products.

4 Chairperson; Quorum. The members of the study commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this section.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2006.

6 Effective Date. This act shall take effect upon its passage.

**2006-2189s**

#### AMENDED ANALYSIS

This bill studies certain issues related to health and human services, including the adequacy of current substance abuse treatment available in the state prison system and the sale of pseudoephedrine base or ephedrine base products.

SENATOR MARTEL: I offer floor amendment 2189, Mr. President.

SENATOR GATSAS (In the Chair): 2189 has been offered.

SENATOR MARTEL: Establishing a committee to study the adequacy of current substance abuse treatment available in state prison systems.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

#### MOTION TO REMOVE FROM THE TABLE

Senator Foster moved to have HB 1332 removed from the table.

**Adopted.**

**HB 1332**, establishing a commission to study health care in New Hampshire correctional facilities.

**The question is on the committee report of ought to pass.**

Senator Foster offered a floor amendment.

Sen. Foster, Dist. 13

**May 2, 2006**

**2006-2115s**

**04/09**

#### Floor Amendment to HB 1332

Amend the title of the bill by replacing it with the following:

AN ACT establishing a commission to study certain judiciary-related issues.

Amend the bill by replacing all after the enacting clause with the following:

1 Commission Established. There is established a commission to study certain judiciary-related issues.

2 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

(b) Four members of the house of representatives, appointed by the speaker of the house of representatives.

(c) The commissioner of the department of corrections, or designee.

(d) A representative of the New Hampshire Association of Counties, appointed by that organization.

(e) A representative of the New Hampshire Medical Society, appointed by that organization.

(f) A representative of New Hampshire Legal Assistance, appointed by that organization.

(g) A representative of the Disabilities Rights Center, appointed by that organization.

(h) A representative of the New Hampshire chapter of the National Alliance for the Mentally Ill, appointed by that organization.

(i) A representative of the New Hampshire Psychiatric Society, appointed by that organization.

(j) Two public members, one of whom shall be a professional substance abuse counselor, appointed by the governor.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the committee.

3 Duties. The commission shall study:

I. The adequacy of health care services in New Hampshire correctional facilities, including state prisons, county correctional facilities, and youth correctional facilities, and make such recommendations as the commission deems appropriate. The commission shall solicit information and testimony from such agencies, organizations, and individuals as may assist the commission in the performance of its duties.

II. Whether or not to restrict the department of health and human service's ability to recover the cost of medical assistance from life estates created before July 1, 2005 or created 5 years prior to the decedent's eligibility for such assistance.

III. Whether or not to authorize the department of health and human services to compel the sale of the primary residence of a surviving joint owner as part of the department's estate recovery practice.

IV. Whether or not to prohibit certain convicted felons from obtaining a license and hunting wild birds and wild animals.

V. Whether or not to require emergency care providers to report any relevant information on certain sexual assault crimes to law enforcement officials, and whether an emergency care provider who has shown due diligence shall be held liable for failure to suspect abuse, or for reporting to law enforcement officials in good faith, without malice, any suspected abuse.

VI. Whether the court should have discretion, in certain cases of domestic violence, to permit a victim's tenancy to continue.

VII. The weighted caseload system and its impact on the number of judges needed in and assigned to certain district courts.

4 Chairperson. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the committee shall be held within 45 days of the effective date of this section.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2006.

6 Effective Date. This act shall take effect upon its passage.

**2006-2115s**

### AMENDED ANALYSIS

This bill establishes a commission to study:

I. Health care in New Hampshire correctional facilities.

II. Whether or not to restrict the department of health and human service's ability to recover the cost of medical assistance from life estates created before July 1, 2005 or created 5 years prior to the decedent's eligibility for such assistance.

III. Whether or not to authorize the department of health and human services to compel the sale of the primary residence of a surviving joint owner as part of the department's estate recovery practice.

IV. Whether or not to prohibit certain convicted felons from obtaining a license and hunting wild birds and wild animals.

V. Whether or not to require emergency care providers to report any relevant information on certain sexual assault crimes to law enforcement officials, and whether an emergency care provider who has shown due diligence shall be held liable for failure to suspect abuse, or for reporting to law enforcement officials in good faith, without malice, any suspected abuse.

VI. Whether the court should have discretion, in certain cases of domestic violence, to permit a victim's tenancy to continue.

VII. The weighted caseload system and its impact on the number of judges needed in and assigned to certain district courts.

SENATOR FOSTER: Thank you, Mr. President. I offer floor amendment 2155s, 2115, 2115s, establishing a commission to study healthcare in New Hampshire correctional facilities, which I'll offer and not vote for.

**Floor amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

### MOTION TO REMOVE FROM THE TABLE

Senator Letourneau moved to have HB 1512 removed from the table.

**Adopted.**

**HB 1512**, establishing a committee to study volunteer activity related to transportation.

**The question is on the committee report of ought to pass.**

Senator Letourneau offered a floor amendment.

Sen. Letourneau, Dist. 19

**May 2, 2006**

**2006-2113s**

**06/09**

### Floor Amendment to HB 1512

Amend the title of the bill by replacing it with the following:

AN ACT: establishing a commission to study certain transportation issues.



Amend the bill by replacing all after the enacting clause with the following:

1 Commission Established. There is established a commission to study certain transportation issues;

2 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

(b) Four members of the house of representatives, appointed by the speaker of the house of representatives.

(c) The commissioner of the department of transportation, or designee.

(d) The director of the office of homelessness, housing, and transportation issues, or designee.

(e) The bureau chief of the bureau of adult and elderly services.

(f) One member from the AARP, appointed by such organization.

(g) Two public members appointed by the governor.

(h) One member appointed by the New Hampshire Marine Trades Association.

(i) The commissioner of environmental services, or designee.

(j) The commissioner of resources and economic development, or designee.

(k) The commissioner of safety, or designee.

(l) The executive director of the fish and game department, or designee.

(m) One member appointed by the public water access advisory board.

(n) One member appointed by the New Hampshire Lakes Association.

(o) The director of the New Hampshire Rivers Council, or designee.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall:

I.(a) Investigate issues surrounding the role of volunteers in a coordinated community transportation system, transportation liability, interstate transportation, and other areas as the commission deems appropriate.

(b) Consult with representatives from the New Hampshire Trial Lawyers Association, the New Hampshire insurance department, and the governor's task force on community transportation.

II. Study current rural transit, with respect to fund leveling, demographics, existing transportation services, and federal funds available to New Hampshire within the current federal highway bill that supports rural transit.

III. Study the issuance of dealer plates to bonded motor vehicle dealers.

IV. Study ways to utilize rest areas to better serve tourists and the motoring public.

V. Seek assistance from the liquor commission and the departments of transportation, resources and economic development, revenue administration, safety, and agriculture, markets, and food.

VI. Review, revise, update, and purge all New Hampshire statutes covering railroad operation, rights-of-way, property rights, and such other railroad statutes as the commission may find relevant.

VII. Determine how to optimize enforcement of safe boating laws on water bodies.

4 Chairperson. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first meeting of the commission shall be held within 45 days of the effective date of this act.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, 2006.

6 Effective Date. This act shall take effect upon its passage.

## **2006-2113s**

### **AMENDED ANALYSIS**

This bill establishes a commission to study certain transportation issues.

SENATOR LETOURNEAU: I move amendment 2113s.

SENATOR GATSAS (In the Chair): Amendment 2113s has been proposed.

SENATOR LETOURNEAU: Yes, this establishes a committee to study volunteer activity related to transportation.

### **Floor amendment adopted.**

The question is on the adoption of the bill as amended.

### **Adopted.**

### **Ordered to third reading.**

SENATOR GATSAS (In the Chair): Ladies and gentlemen, we've just reduced some fifty study bills to nine, and I can only tell you that Marlene Taylor and Samantha Piatt have been working pretty hard on this for the last three weeks.

SENATOR GREEN: Mr. President, all these amendments that you just adopted, has only two or three Senators. As the committee itself is not the study committee, or are they?

SENATOR GATSAS (In the Chair): No. Each committee will have, I believe, I think it's maybe two or three Senators so that they can have subcommittees to hear what they're doing. Okay?

SENATOR GREEN: Okay.

SENATOR BARNES: Is it now time to pull 1690? Reconsider 1690?

SENATOR GATSAS (In the Chair): Senator Barnes, you want to order reconsider 1690 third reading final passage?

SENATOR BARNES: Please, Mr. President.

### **MOTION OF RECONSIDERATION**

Senator Barnes, having voted with the prevailing side, moved reconsideration of **HB 1690**, whereby it was adopted and ordered to third reading.

### **Adopted.**

**HB 1690**, relative to renewable energy.

Senator Morse offered a floor amendment.

Sen. Kenney, Dist. 3

Sen. Morse, Dist. 22

**May 4, 2006**  
**2006-2210s**  
**05/09**

**Floor Amendment to HB 1690**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to renewable energy and making a capital appropriation to the department of health and human services for a dental facility in the town of Tamworth.

Amend the bill by replacing all after section 3 with the following:

4 Purpose. The state of New Hampshire recognizes the importance of good oral health for all citizens. Many low to moderate income people on Medicaid and Medicare find it difficult to access dental care in the state of New Hampshire, especially emergency oral health care. Some of the federal programs for basic dental care in the public schools have had their funding reduced. The federal court case of *Hawkins v. Commissioner* filed in 1999 and settled in 2004 involved a 6-year-old girl denied oral health care as a Medicaid recipient. The settlement of the lawsuit cost the state a few million dollars and required the state department of health and human services to spend more time and money to assist low income families in finding dentists. The department makes annual progress reports to the New Hampshire attorney general's office on oral health status in the state which are available for review by the federal court. This act provides assistance to the towns of Carroll County which have no dental clinic center for treating Medicaid patients, uninsured persons, or participants in the Healthy Kids program, the nearest facility being in Exeter. The construction of the facility with the funds appropriated by this act are intended to alleviate the oral health crisis in this state.

5 Capital Appropriation to the Department of Health and Human Services for Dental Facility; Bonds Authorized.

I. For the purpose of state participation in building a dental facility as part of the Tri-County Community Action Program, there is hereby appropriated to the department of health and human services the sum of \$400,000, which shall be matched with \$780,000 of federal and local funds. Such funds shall be in addition to any other funds appropriated to the department of health and human services.

II. To provide funds for the state appropriation made in paragraph I, the state treasurer is hereby authorized to borrow upon the credit of the state not exceeding the sum of \$400,000 and for said purpose may issue bonds and notes in the name of and on behalf of the state of New Hampshire in accordance with RSA 6-A. Payments of principal and interest on the bonds and notes shall be made from the general fund of the state.

6 Effective Date.

I. Sections 4 and 5 of this act shall take effect July 1, 2006.

II. The remainder of this act shall take effect upon its passage.

**2006-2210s**

**AMENDED ANALYSIS**

This bill:

I. Authorizes electric utilities to offer a renewable energy default service option.

II. Authorizes the use of energy efficiency system benefits charge funds for renewable energy programs.

III. Requires the public utilities commission to open a docket relating to power from generators employing wood-fired energy.

IV. Makes a bonded appropriation for the construction of a dental facility as part of the Tri-County Community Action Program.

SENATOR MORSE: Yes, Mr. President. I offer amendment 2210.

SENATOR GATSAS (In the Chair): Amendment 2210 has been proposed. You may speak to your amendment as it's being distributed.

SENATOR MORSE: Thank you, Mr. President. Due to action in the House today, of once again eliminating the dental clinic in the north country, we're trying to help the north country again. We are proposing this amendment on this bill and we'd like to get it to Committee of Conference.

SENATOR LARSEN: I just have to rise because this dental clinic that we have debated over the time...over time, as I recall, and it was some months back, but as I recall, the Dental Society doesn't support this dental clinic. They would prefer to see a mobile clinic. It is not something which is a priority for some of the other agencies which are providing dental work...dental services, and it is tacking it onto a bill which we already believe is an important bill. I think...I fear it puts at risk the whole idea of any new assistance to Berlin by weighting it down with something that appears to be as controversial as this dental clinic in Tamworth. So I rise to oppose the amendment.

**Recess.**

**Out of recess.**

**The question is on the adoption of the floor amendment.**

**A division vote was requested.**

**Yeas: 12 – Nays: 9**

**Floor amendment adopted.**

### **PARLIAMENTARY INQUIRY**

SENATOR BURLING: I have a true parliamentary inquiry. I just want to establish this. We're going into a Committee of Conference on this bill, the primary focus of which is the adoption of an energy plant for the north country. There now is a Tamworth proposal on it which is anathema in the House. I think the Conferees should be clear, whoever they may be, about what their obligations are. Ordinarily, anybody who voted for a part of the bill could not go on the Committee of Conference. Between all of us, we've just managed to eliminate everybody who could be a conferee.

SENATOR MORSE: I could be on it, Mr. President.

SENATOR BURLING: Chuck's in charge.

SENATOR GATSAS (In the Chair): To answer your parliamentary inquiry, I understand what you're saying, Senator. I don't know if you're looking for a motion of reconsideration so that...? Okay.

SENATOR BURLING: I intended to raise the question so if somebody's thinking about it, we ought to be ready for a difficult choice.

SENATOR GATSAS (In the Chair): Thank you.

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

Senators Estabrook and Kenney are excused from this vote.

SENATOR ODELL: Mr. President, would now be an appropriate time to take HB 175 (sic) off the table?

SENATOR GATSAS (In the Chair): The appropriate time now is to take HB 175 off the table.

**Recess.**

**Out of recess.**

SENATOR GATSAS (In the Chair): We're not removing anything from the table. Senator Gallus, what's the bill number?

SENATOR GALLUS: House Bill 1751.

### **MOTION TO REMOVE FROM THE TABLE**

Senator Gallus moved to have HB 1751 removed from the table.

**HB 1751**, relative to penalties for failure to have workers' compensation coverage.

### **PARLIAMENTARY INQUIRY**

SENATOR BRAGDON: Mr. President, what exactly is 1751?

SENATOR GATSAS (In the Chair): This is a bill that extends the unemployment benefits to the people from the mills in the north country that we put on the table. Look, I know it's all getting late, but you know, let's see if we can keep a little more decorum in here for at least the next ten minutes so we can go home. If somebody would like us to distribute it before it comes off the table and you want to see the bill, we can do that. The amendment came out earlier this morning. I don't have copies of it here. Yesterday. The amendment number is 1996.

SENATOR BARNES: I'd like to ask a question. Is it proper to ask a question now on this amendment?

SENATOR GATSAS (In the Chair): The bill has not come off the table yet. Everybody's got the amendment. First, we have to vote to take the bill off the table.

SENATOR BARNES: Thank you. I wasn't sure where it was.

SENATOR BRAGDON: If I'm clear Mr. President, we can take the bill off the table. If I like the bill but not the amendment, taken off the table doesn't force me into accepting the amendment. Correct?

SENATOR GATSAS (In the Chair): That is correct. You must first take the bill off of the table. We're in the ought to pass. Senator Gallus' floor amendment was introduced but not voted on. Then it was put on the table. So it is still ought to pass. And the question is still, do you want to take the bill off the table?

**Motion failed.**

### **RESOLUTION**

Senator Larsen moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that all bills and resolutions ordered to a third reading be, by this resolution, read a third time, and all titles be the same as adopted, and that they be passed at the present time.

**Adopted.**

**LATE SESSION****Third Reading and Final Passage**

**HB 76**, relative to distribution of state aid to charter schools.

**HB 298**, relative to consolidating statutes relating to driving while intoxicated.

**HB 385**, establishing a committee to study the adequacy of current substance abuse treatment available in the state prison system.

**HB 459**, relative to access to criminal records and enhanced 911 system records.

**HB 506**, including employees of charitable organizations under the protection of the state law against discrimination.

**HB 529**, relative to the determination of parental rights and responsibilities.

**HB 587**, relative to child abuse and neglect investigations by the department of health and human services.

**HB 592**, relative to the child support guidelines.

**HB 638-FN**, relative to county and state financing of nursing home services.

**HB 678-FN**, relative to the insurance premium tax.

**HB 1113**, adding a definition of "public academy" to the definition of "high school".

**HB 1116**, relative to service of the notice to quit and writ of summons in landlord tenant actions.

**HB 1121-L**, establishing a committee to study rulemaking and licensure issues relative to assisted living and residential care.

**HB 1146**, establishing a committee to study renewable portfolio standards.

**HB 1157**, relative to the definition of a sending district.

**HB 1191**, making technical corrections to the chapter governing vital records.

**HB 1201**, relative to child passenger restraints.

**HB 1204**, relative to human immunodeficiency virus education, prevention and control.

**HB 1206**, relative to the assessing standards board.

**HB 1214**, establishing a study committee to identify and assess community-based, educational and social/human services programs that serve families with children 8 years old and younger.

**HB 1260**, relative to informing first-time driver's license applicants of the controlled drug laws.

**HB 1273**, relative to the disposition and retention of municipal records and legalizing the September 13, 2005 special meeting of the town of Brookline.

**HB 1274**, relative to certain disclosures to the department of health and human services.

**HB 1285**, making certain technical corrections to the adoption statute.

**HB 1295**, requiring notification regarding brake shift interlock and key positions by automobile dealers to consumers.

**HB 1298**, establishing a study committee to evaluate disciplinary procedures of the board of medicine.

**HB 1305-L**, authorizing cities to adopt certain bylaws and ordinances relative to businesses obtaining city permits.

**HB 1317**, relative to the control or eradication of exotic aquatic weeds and requiring a review by the department of agriculture, markets, and food, the department of environmental services, the fish and game department, and the department of resources and economic development, evaluating the current permitting process for special permits for aquatic applications of pesticides to control or eradicate exotic aquatic weeds and making recommendations to improve the process.

**HB 1331**, relative to the New Hampshire Temporary Assistance to Needy Families (TANF) program.

**HB 1332**, establishing a commission to study health care in New Hampshire correctional facilities.

**HB 1334**, establishing a committee to study the effect on the unemployment compensation trust fund of employers with negative balance separate accounts.

**HB 1346**, requiring certain persons to keep the contents of prescriptions confidential.

**HB 1351**, relative to the rulemaking process.

**HB 1357**, relative to the legislative facilities committee.

**HB 1373**, establishing a commission to study ways to encourage the proper recycling and disposal of grease trap wastes and to determine ways to develop additional disposal capacity.

**HB 1377**, relative to certain mandatory minimum sentences.

**HB 1386**, relative to exceptions to the prohibition on carrying and selling knives.

**HB 1424**, relative to persons permitted to attend child abuse and neglect hearings.

**HB 1427**, relative to guiding principles for developmentally disabled services.

**HB 1435**, relative to the emergency plan for service animals.

**HB 1436-L**, authorizing municipal and county biennial budgets for a 24-month period.

**HB 1444-FN**, relative to definitions under the real estate transfer tax.

**HB 1448**, relative to the applicability of drivers' license revocations for drugs or alcohol involvement.

**HB 1461**, establishing a task force to study Temporary Assistance to Needy Families (TANF) benefits.

**HB 1470**, relative to overweight vehicle permit fees.

**HB 1477**, implementing the federal Law Enforcement Officers Safety Act of 2004.

**HB 1480**, amending the provisions relative to registration of criminal offenders.

**HB 1508**, relative to acceptance of applications by planning boards.

**HB 1512**, establishing a committee to study volunteer activity related to transportation.

**HB 1516**, relative to the modification and enforcement of child support orders.

**HB 1521**, relative to the membership of the juvenile parole board.

**HB 1526**, relative to the composition of the medical review subcommittee of the medical review board.

**HB 1530**, naming the road to the supreme court and the administrative office of the courts Charles Doe Drive and naming the campus of the supreme court and the administrative office of the courts Charles Doe Place.

**HB 1546**, relative to patient information.

**HB 1566**, relative to the definitions of resident for motor vehicle law purposes and domicile for voting purposes and relative to vehicle registration and driver's license requirements.

**HB 1574**, relative to membership on the public employees deferred compensation commission.

**HB 1581**, relative to drivers' licenses issued to persons under the age of 21.

**HB 1582**, prohibiting New Hampshire from participating in a national identification card system.

**HB 1583**, relative to grounds for modification of parental rights and responsibilities.

**HB 1585**, relative to enforcement of orders regarding parenting plans.

**HB 1625**, establishing penalties for guardians ad litem who fail to file reports which are required by the court.

**HB 1687**, extending certain studies and adding a certain duty relative to pharmacy reimbursement.

**HB 1690**, relative to renewable energy.

**HB 1756**, relative to alternative regulation of small incumbent local exchange carriers.

**HB 1758**, classifying biodiesel as a renewable energy source.

**HB 1761**, relative to hold over tenants in vacation or recreational rental units.

**HB 1763**, extending a committee and adding certain duties relative to pharmacy reimbursement.

**HB 1764**, relative to the committee to study medicaid reimbursement rates for pharmacy providers.

**HB 1767-FN-A**, authorizing the state acquisition of real estate destroyed in the October 2005 floods, establishing a commission to determine the appropriate use of the property, and making an appropriation therefor.

**CACR 41**, relating to representative districts. Providing that representative districts shall be apportioned according to specified standards.

### ANNOUNCEMENTS

SENATOR GATSAS (In the Chair): Listen. I just want to thank everybody. You know, sometime the passions in here run very deep and very hard. And I respect every one of you for the work that you do because



you truly put in 100 percent. I can't tell you that not one of you wouldn't I jump in a fox hole with, because I know you'd be there. And I think that the state of New Hampshire should be very proud of every one of the Senators, 'cause you do put in 100 percent. Just so that everybody knows, we tomorrow morning, we have Fiscal...we got pre-Fiscal at 7:30. Just so you know. The Senate will be in session on Thursday the 11<sup>th</sup> at 10:00 to appoint Committees of Conferees for their final session day on May 24<sup>th</sup>. We're going to have Committees of Conference set up, or at least the committees setting up on Tuesday, with their chairmen. They start, I believe, at 8:30. And I know it's tough, but I certainly would like to see the chairmen on Monday so that we can at least get the packets on the Committees of Conference so that we can be prepared to go forward. So I'll get you a definite time, whether it's better in the morning or the afternoon for the Chairmen on Monday. Okay? I don't know what time yet, but I'll try and have the chief of staff get ahold of everybody to see what's most convenient for everybody. Okay?

### RESOLUTION

Senator Larsen moved that the Senate recess to the Call of the Chair for the sole purpose of sending and receiving messages, processing enrolled bill reports and amendments.

**Adopted.**

**In recess to the Call of the Chair.**

### HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the passage of the following entitled Bills sent down from the Senate:

**SB 107-FN**, relative to the tax on tobacco products other than cigarettes.

**SB 131-FN**, establishing a school choice certificate program.

**SB 238**, relative to assistance to members of the general court provided by the legislative budget assistant.

**SB 304**, relative to provider payments negotiated by the commissioner of the department of health and human services.

**SB 367-FN**, imposing a penalty on Medicaid providers who receive overpayments of state Medicaid funds.

**SB 373-FN-A**, relative to a public health response to arbovirus.

**SB 380-FN-A**, establishing a research and development credit against business taxes.

**SB 384-FN-A-L**, establishing a temporary one-time exemption from the real estate transfer tax for certain transfer of family farm or open space land.

**SB 397-FN-A**, establishing a temporary energy tax credit against the business enterprise tax.

### HOUSE MESSAGE

The House of Representatives has voted to Lay On The Table the following entitled Bill sent down from the Senate:

**SB 22**, authorizing Holden College to confer degrees and exempting certain teachers from additional certification requirements imposed by the No Child Left Behind Act of 2001.

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bills sent down from the Senate:

**SB 225-FN-A**, relative to horse and dog racing.

**SB 308-FN-A-L**, making an appropriation for school building aid.

**SB 322**, establishing the business loan enhancement program and relative to the capital asset backed guarantee program.

**SB 387**, relative to energy efficiency loans and guarantees by the business finance authority.

**SB 400-FN**, relative to highway welcome signs.

**HOUSE MESSAGE**

The House of Representatives has referred for Interim Study the following entitled Bill sent down from the Senate:

**SB 232-FN-A**, making a capital appropriation to the department of health and human services for a dental facility in the town of Tamworth.

**HOUSE MESSAGE**

The House of Representatives has adopted the recommendation of ought not to pass submitted by the Joint Committee of Address to which was referred the following entitled Address:

**HA 1**, an address for the removal of Kenneth R. McHugh, superior court justice, from office.

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

**HB 221**, relative to eligibility for absentee ballots.

**HB 716-FN**, relative to securities regulation.

**HB 718-FN-A**, relative to a state active duty death benefit for activated members of the New Hampshire national guard and making an appropriation therefor.

**HB 1182-FN**, relative to the limited commercial lobster license fees.

**HB 1243-FN**, reducing certain fines for motor vehicle violations.

**HB 1419-FN**, relative to mediation in divorce proceedings.

**HB 1660-FN**, regulating identity theft.

**HB 1681-FN**, establishing the unused prescription drug program.

**HB 1688**, prohibiting the use of gasoline-powered watercraft on Head's Pond in Hooksett.

**HB 1727-FN-L**, relative to transfer or discharge of patients or residents in licensed facilities.

**REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

**HB 1634-FN**, making technical changes to the law governing the New Hampshire retirement system.

**SB 255**, establishing a committee to study the funding necessary to operate the hazardous materials program in New Hampshire.

**SB 265**, relative to workers' compensation requirements for out-of-state employers and employees.

**SB 318-FN**, relative to the use of deadly force to protect oneself.

**SB 335**, relative to funds of the department of resources and economic development used for snowmobile trail grooming equipment.

**SB 348**, prohibiting the taking of arms and ammunition in a declared state of emergency.

**SB 369**, relative to portability, availability, and renewability of health coverage.

**SB 370-FN**, relative to multidisciplinary child protection teams.

Senator Clegg moved adoption.

**Adopted.**

**Out of Recess.**

### **LATE SESSION**

Senator Clegg moved that the Senate adjourn from the late session.

**Adopted.**

**Adjournment.**

*May 11, 2006*

The Senate met at 10:00 a.m.

A quorum was present.

The Reverend David P. Jones, chaplain to the Senate, offered the prayer.

**REVEREND DAVID P. JONES:** Good morning. The art of fly-fishing takes good vision and considerable dexterity to tie those little buggers onto the end of a piece of line that's about as thick as a spider web strand. But, to cast your line takes coordination, and skill, in order to send the line at the right time, in the right place, in the right distance, in the right length of the water surface without splashing, because that scares the fish. Then it takes alert observation to know which fly to tie on the end of your line, at what time of the day, and in what season, so that it will look like the other food sources that nature is providing right then. Then, it requires patience to stand hip-deep, deep in the cold flowing water, while something totally out of your control, that is the fish, decides what to do about it all. There is a reason that most fish die of old age, a lot more than are caught by anglers, or eaten by creatures of prey, because they aren't stupid. It seems to me, as you wind down things here, that vision, dexterity, coordination, timing, skill, alert patience, and a strong dose of realism are just what you need if you are going to have a chance to catch that big one this year. And remember, the big one is not legislative victory. Rather, the big one is the hard won, authentic, mutual respect that you show one another that give any legislation you might create its value. Let us pray.

*O God, Creator and Angler of our lives, cast the bait of Your desires for us before our hungry eyes in ways that catch us with the hook of Your care and that reel us in, closer and closer to one another and to you, for therein lies our true liberty.*  
*Amen*

Senator Barnes led the Pledge of Allegiance.

Senator Boyce is excused for the day.

## INTRODUCTION OF GUESTS COMMITTEE REPORT

**HB 2006**, relative to the state 10-year transportation improvement plan, the exemption of highway projects from eminent domain, improvements on the FE Everett Turnpike/I-293 and certain segments of N.H. 101, and a bridge crossing the Merrimack. Capital Budget. Ought to pass with amendment, Vote 5-0. Senator Morse for the committee.

**Capital Budget**  
**May 10, 2006**  
**2006-2224s**  
**06/01**

### Amendment to HB 2006

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to the state 10-year transportation improvement plan, the exemption of highway projects from eminent domain, improvements on the FE Everett Turnpike/I-293 and certain segments of NH 101, a bridge crossing the Merrimack, and establishing a study committee.

Amend the bill by replacing all after section 10 with the following:

11 Committee Established. There is established a committee to review the 10-year transportation improvement plan procedure.

12 Membership and Compensation.

I. The members of the committee shall be as follows:

(a) Three members of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house of representatives.

II. Members of the committee shall receive mileage at the legislative rate when attending to the duties of the committee.

13 Duties. The committee shall review the procedures of the 10-year transportation improvement plan and make recommendations relative to such plan.

14 Chairperson; Quorum. The members of the study committee shall elect a chairperson from among the members. The first meeting of the committee shall be called by the first-named senate member. The first meeting of the committee shall be held by June 15, 2006. Four members of the committee shall constitute a quorum.

15 Report. The committee shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before December 20, 2006.

16 Effective Date.

I. Sections 11-15 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

**2006-2224s****AMENDED ANALYSIS**

This bill:

I. Updates the 10-year transportation improvement plan to maintain highways and bridges in the state.

II. Exempts certain highway projects from eminent domain.

III. Includes improvements to a segment of the FE Everett Turnpike/I-93 and the widening of a segment of NH 101.

IV. Requires the department of transportation to make periodic reports.

V. Requires expenditures for the repayment of bonds to be approved by the capital budget overview committee.

VI. Establishes a committee to review the procedures of the 10-year transportation improvement plan.

SENATOR MORSE: Thank you, Mister President. I move House Bill 2006 ought to pass with amendment. This bill represents the ten-year highway plan, as it was passed in the House. During the Committee's discussions on this legislation, we asked the Department of Transportation to look at what a true ten-year highway plan would look like. The bill, as passed in the House, is truly more of a fourteen-year highway plan. While we received that information from the Department, given the time constraints, the Committee was not able to provide the attention that the highway plan needs. As a result, the Committee amendment proposes a study committee to review how projects are added to, and include in the ten-year highway plan. Given the updates on the ten-year highway plan by the Department of Transportation, the Department of Transportation will start soon. The amendment requires the committee to meet by June 15<sup>th</sup>, and issue a report by December 20<sup>th</sup>. This will allow the Committee to review the process, make any necessary recommendations, and propose legislation in order to keep the highway plan to ten years. The Capital Budget Committee asks for your support.

SENATOR FULLER CLARK: I'm not sure if it's on the Committee amendment, or if it's on the highway plan. So, should I wait for the amendment? Is there then still chance to ask a question?

SENATOR GATSAS ( in the chair ): Are you speaking on a floor amendment or, this is a Committee amendment, as amended. Question for Senator Morse?

SENATOR FULLER CLARK: Yes, I do. I simply would like to ask Senator Morse if you could let me know where the funding for the Memorial Bridge in Portsmouth still stands?

SENATOR MORSE: We can get you a copy of the ten-year highway plan. The ten-year highway plan, as it went through Governor and Council and went through the House, still stands. We didn't touch any of that. The only thing that we suggested, and we put as an amendment was, let's follow that ten-year highway plan, for this session and let's look at the process for the ten-year highway process, as part of the study committee.

SENATOR JOHNSON: Thank you, Mr. President. As a member of the Capital Budget Committee in the Senate, I want to thank Senator Morse and Senator Clegg for bringing this amendment forward. I know in my district, there are a lot of projects that people are expecting to see results in the ten-year plan, and I think I've been advising them that they're to use caution because I really don't think that's going to happen in many of those cases. So again, I want to thank the two Senators for bringing that amendment forward. Thank you, Mr. President.

SENATOR LETOURNEAU: Thank you, Mr. President. I just want to stand and rise and thank the Capital Budget Committee and Chairman Clegg for passing this bill along. There's been a lot of work done to get all of the projects on that is planned over the past few years, particularly in my district, on the I-93 and the exit 4E issues that I spoke about, and I want to thank the Committee for their hard work on this, and I do approve of the amendment to study it.

**Amendment adopted.**

**The question is on the adoption of the bill as amended.**

**Adopted.**

**Ordered to third reading.**

### **HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 391-FN**, relative to insurance third party administrators.

### **SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 391**, relative to insurance third party administrators.

Senator Flanders moved to concur.

**Adopted.**

### **HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from Senate:

**HB 37-FN**, relative to health insurance coverage for full-time students on medical leaves of absence.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Sheila Francoeur, Infantine, Charles Clark & DeJoie.

### **SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE**

**HB 37**, relative to health insurance coverage for full-time students on medical leaves of absence.

Senator Flanders moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Flanders, Barnes, Gottesman

### **HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 244**, relative to alternative regulation of small incumbent local exchange carriers and relative to unclaimed deposits for utility services.

### **SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 244**, relative to alternative regulation of small incumbent local exchange carriers and relative to unclaimed deposits for utility services.

Senator Letourneau moved to concur.

**Adopted.**

### **HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from Senate:

**HB 582**, relative to the policy for records management.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Pilotte, Fitzgerald, Millham and Irwin.

### **SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE**

**HB 582**, relative to the policy for records management.

Senator Odell moved to accede to the request for a Committee of Conference.

**SENATOR BURLING:** Parliamentary inquiry, Mr. President. We're all confused on this side of the table because we don't have that in our list.

**SENATOR GATSAS** (in the chair): That was a late one that came. I apologize. It's on page four.

**SENATOR BURLING:** Thank you.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Morse, Odell, Burling

### **HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 103-FN-A-L**, establishing a committee to study alternatives for funding the operation and maintenance of state-owned dams and making an appropriation to the state dam maintenance fund.

### **SENATE NONCONCURS WITH HOUSE AMENDMENT**

**SB 103-FN-A-L**, establishing a committee to study alternatives for funding the operation and maintenance of state-owned dams and making an appropriation to the state dam maintenance fund.

Senator Barnes moved to nonconcur.

**SENATOR HASSAN:** Thank you, Mr. President. This was a 3-2 vote of nonconcurrence in the Environment and Wildlife Committee. I rise in

opposition to the nonconcurrence simply because, if we have a Committee of Conference on this bill, we will have an opportunity to discuss appropriate funding for dam maintenance. When the House sent this bill back to us, it had a million dollars of very important dam maintenance funding, and if we fail to concur on this, there will be no funding, as I understand it. So, I would recommend to my colleagues that we vote against the nonconcurrence, so that we could move for a Committee of Conference on this bill. Thank you.

SENATOR JOHNSON: Thank you, Mr. President. I've certainly been dealing with this issue for quite some time. But I just want to remind this body that we were not able to come up with a dedicated fund, even though we had legislation to address that, and we know that we do not have the moneys available out of the general fund, and so I think that the Department has indicated to me that they probably will have enough funds available to get through this biennium, and then we can address this in the next session, and hopefully, it is a very serious issue, and we all realize that we have to do something, and I think that's the time to address it. Thank you, Mr. President.

**Adopted.**

### HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 140**, relative to the acceptance of in-lieu payments for the restoration or creation of wetlands and the preservation of upland areas adjacent to wetland areas.

### SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

**SB 140**, relative to the acceptance of in-lieu payments for the restoration or creation of wetlands and the preservation of upland areas adjacent to wetland areas.

Senator Eaton moved to nonconcur and requests a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Johnson, Gallus, Hassan

**CONFEREES:** Senator Burling replaced Senator Hassan.

### HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

**SB 140**, relative to the acceptance of in-lieu payments for the restoration or creation of wetlands and the preservation of upland areas adjacent to wetland areas.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Currier, Chris Christensen, Sanders & Spang.



**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 250**, relative to lead paint poisoning prevention.

**SENATE NONCONCURS AND REQUESTS  
A COMMITTEE OF CONFERENCE**

**SB 250**, relative to lead paint poisoning prevention.

Senator Hassan moved to nonconcur and requests a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Martel, Eaton, D'Allesandro

**HOUSE MESSAGE**

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

**SB 250**, relative to lead paint poisoning prevention.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Babson, Olympio, Tobin and Essex

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 251**, relative to the enforcement authority of the division of safety services.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 251**, relative to the enforcement authority of the division of safety services.

Senator Barnes moved to concur.

**Adopted.****HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 386**, relative to large groundwater withdrawals.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 386**, relative to large groundwater withdrawals.

**SENATOR EATON:** As we were going through this, there were questions about people who already had permits in the pipeline, and I think, for the record, we need to state that any permit that is in the pipeline now, or permits that have been approved, or might be going back to court for some reason or another, still would be grandfathered and not part of this study.

SENATOR GREEN: Thank you, Mr. President. As you know, I'm the prime sponsor of this bill, and I would echo the comments of Senator Eaton, that in fact this bill does not affect any applicant or anybody who has an application, or a permit, and would not be changed in any way their ability to continue, regardless of any court action. So, I would make sure that's on part of the record, in case there has to be an intent indication. Thank you.

Senator Barnes moved to concur.

**Adopted.**

### HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 388**, relative to farm composting and pesticides.

### SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

**SB 388**, relative to farm composting and pesticides.

Senator Eaton moved to nonconcur and requests a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Odell, Johnson, Hassan

### HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

**SB 388**, relative to farm composting and pesticides.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** O'Connell, Babson, Sawyer, Essex

### HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 190-L**, establishing a committee to study including workforce housing in zoning ordinances.

### SENATE CONCURS WITH HOUSE AMENDMENT

**SB 190-L**, establishing a committee to study including workforce housing in zoning ordinances.

Senator Kenney moved to concur.

**Adopted.**

### HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 252**, relative to certification of speech-language assistants for purposes of speech language pathology practice.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 252**, relative to certification of speech-language assistants for purposes of speech language pathology practice.

Senator Kenney moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 352-FN**, relative to the regulation of real estate appraisers.

**SENATE NONCONCURS AND REQUESTS  
A COMMITTEE OF CONFERENCE**

**SB 352-FN**, relative to the regulation of real estate appraisers.

Senator Kenney moved to nonconcur and requests a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Gallus, Letourneau, Larsen

**HOUSE MESSAGE**

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

**SB 352-FN**, relative to the regulation of real estate appraisers.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Dexter, Hawkins, Irwin and McMahon

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 200-FN**, establishing the uniform athlete agents act.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 200-FN**, establishing the uniform athlete agents act.

Senator Morse moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 262**, establishing the position of an administrator of women offenders and family services within the department of corrections, and establishing an interagency coordinating council on women offenders, and making an appropriation therefor.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 262**, establishing the position of an administrator of women offenders and family services within the department of corrections, and establishing an interagency coordinating council on women offenders, and making an appropriation therefor.

Senator Morse moved to concur.

SENATOR LARSEN: I would just rise to applaud the work of the Senate Judiciary, and all those who helped to get this bill to a concurrence. I think we all recognize the need for corrective action in the women's prison here in New Hampshire, and for more attention being paid to the ways within which we can accomplish good changes in our correctional facility, and this, I believe, will be a good pilot site by which we can address substance abuse issues, and other issues that may work for the entire prison. Thank you for your help.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 283-FN**, relative to stop loss insurance.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 283-FN**, relative to stop loss insurance.

Senator Morse moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 284-FN**, establishing a third full-time justice position in the Manchester, Nashua, and Concord District Courts and equalizing the annual salaries of all justices of the Manchester, Nashua, and Concord District Courts.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 284-FN**, establishing a third full-time justice position in the Manchester, Nashua, and Concord District Courts and equalizing the annual salaries of all justices of the Manchester, Nashua, and Concord District Courts.

Senator Foster moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 294-FN-A**, authorizing 7 additional state troopers and making an appropriation therefor.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 294-FN-A**, authorizing 7 additional state troopers and making an appropriation therefor.

Senator Morse moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 305-FN**, relative to the regulation of recreational therapists.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 305-FN**, relative to the regulation of recreational therapists.

Senator Morse moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 306-FN-A**, establishing a quality early learning opportunity initiative and making an appropriation therefor.

**SENATE NONCONCURS WITH HOUSE AMENDMENT**

**SB 306-FN-A**, establishing a quality early learning opportunity initiative and making an appropriation therefor.

Senator Morse moved to nonconcur.

SENATOR ESTABROOK: Thank you, Mr. President. I just wanted the record to reflect that the Senate is going to continue to pursue the passage of this initiative through another bill, so that our nonconcurrency here is not in conflict with the Senate's support for this measure. Thank you.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 339**, changing certain job titles and responsibilities in the department of transportation.

**SENATE NONCONCURS AND REQUESTS  
A COMMITTEE OF CONFERENCE**

**SB 339**, changing certain job titles and responsibilities in the department of transportation.

Senator Morse moved to nonconcur and requests a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Morse, Odell, Larsen

### HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

**SB 339**, changing certain job titles and responsibilities in the department of transportation.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Bergin, Dexter, Irwin and Gould

### HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 364-FN-A**, relative to funding of the fish and game search and rescue fund and making an appropriation therefor.

### SENATE NONCONCURS WITH HOUSE AMENDMENT

**SB 364-FN-A**, relative to funding of the fish and game search and rescue fund and making an appropriation therefor.

Senator Morse moved to nonconcur.

**SENATOR D'ALLESANDRO:** Thank you, Mr. President. I think the Senate had a strong position on this piece of legislation in appropriating \$100,000 in each year for the Search and Rescue Fund for Fish and Game. We know that Fund is almost totally depleted. We're working on finding another mechanism for that. That money must be appropriated if Search and Rescue is to continue in this state, and we're given that challenge, for the Fish and Game Department, they do a wonderful job at it, and we're having to spend more and more money on an annual basis. So, remember this is a very significant piece of legislation as it is responsible for health and safety. We've got to find a place to work with this, and I've talked with the Chairman of Finance over in the House, and I'm sure we can work on this. But, a very important piece of legislation as it represents the health and safety of our citizens, as well as our visitors. Thank you, Mr. President.

**SENATOR BURLING:** Question of Senator D'Allesandro, if he'll yield. Senator, I'm more than a little aware that we are just starting the season in which we are inviting, literally, hundreds of thousands of people to come up on our waterways, kayak, and walk in our mountains. I'm puzzled as to what message we send by nonconcurring on this vote, when we could request a Committee of Conference and keep all the doors open that we can to find that \$100,000. I'm just puzzled, and I'm concerned about what my vote means if I vote in favor of this nonconcurrence motion.

**SENATOR D'ALLESANDRO:** Thank you for the question, Senator Burling. I think the amendments that were attached to this make it a difficult bill for us to work with at this time. But I think the basic premise of funding the fund is there, and that message is loud and clear with our brothers and sisters across the hall. So, that message has gotten to them.

It's very clear that we want this and we will work hard to sustain it. So, I think your vote here is a vote for something that we can accept, but the premise is going to move forward, and we will arrive at the achieved goal.

**SENATOR LARSEN:** I am concerned, too, with the nonconcur motion on this bill because, tucked into this bill is some important language that includes having reimbursement of increased fuel cost to some of the most important contracted providers that we have in this state. They include meals on wheels, they include our community mental health centers, increased costs, they include our residential childcare sites, all of whom have seen increased fuel costs, just as our state has. So, we all know why, even though it looks like Fish and Game, why this bill is going down, and I hope that next week, as we are in Conference Committee, we will at least recognize some of the needs of these providers, as they too have faced dramatically increased energy cost, both in their need to drive around the state and in their need to keep lights and heat on in their facilities. So, I rise to oppose the nonconcur motion. I recognize that we probably won't succeed here, but I hope people will keep an open mind as we go into Conference Committee on this issue.

**SENATOR BURLING:** Thank you, Mr. President. I guess my experience in the House is still fresh enough in my mind that I want to just relate to everybody. You know, I remember on the other side of the wall being in stark terror of what the Senate was going to do to us poor House members. There is some kind of discussion that goes on in this process about relative power and the message we're going to send. I feel so strongly about this search and rescue component, I just want to say, to all of us, I don't worry about our conferees' ability to say that House amendments to a Senate bill are not going anywhere. I do worry that, as we go into this Committee of Conference process, we may, through mistake or inadvertence, lose something we need to do. I just say that because I'm going to vote no on this nonconcurrence, having every confidence that conferees for the Senate would persuade the House that we aren't backing some of their amendments, but we are going to work with them on this bill to find \$100,000 for search and rescue, 'cause we have to do that. Thank you, Mr. President.

**SENATOR CLEGG:** I rise in support of the recommendation. I don't believe for one moment that we'll stop any search and rescue mission because we don't have the money that this bill was going to provide. So I don't think that anybody should panic, and think that oops, somebody's lost in the mountain. The Senate didn't pass the bill, so we're not going to go look for them. That's not going to happen. What this is about, this is about the House trying to spend a couple million dollars on a bill that this body, the Senate, has already debated and already taken a position. So, rather than argue whether or not we're going to continue to spend money we don't have, the Senate is correct in saying no. Let's move on. Thank you.

**Adopted.**

### HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 371-FN**, relative to the continuation of certain wetlands fees.

**SENATE NONCONCURS AND REQUESTS  
A COMMITTEE OF CONFERENCE**

**SB 371-FN**, relative to the continuation of certain wetlands fees.

Senator Morse moved to nonconcur and requests a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Gallus, Green, Hassan

**HOUSE MESSAGE**

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

**SB 371-FN**, relative to the continuation of certain wetlands fees.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Camm, Lund, Carson and Almy.

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House asks the concurrence of the Senate:

**SB 374-FN**, relative to the state children's health insurance program.

**SENATE NONCONCURS AND REQUESTS  
A COMMITTEE OF CONFERENCE**

**SB 374-FN**, relative to the state children's health insurance program.

Senator Morse moved to nonconcur and requests a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Green, Barnes, Larsen

**HOUSE MESSAGE**

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

**SB 374-FN**, relative to the state children's health insurance program.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Stepanek, Hunt, Stella Scamman and DeStefano.

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 399-FN**, relative to the powers of state government in the event of a pandemic.



**SENATE NONCONCURS WITH HOUSE AMENDMENT**

**SB 399-FN**, relative to the powers of state government in the event of a pandemic.

Senator Morse moved to nonconcur.

**SENATOR HASSAN:** Thank you, Mr. Chair. I rise in opposition of the nonconcurrency. The amendment that the House attached to Senate Bill 399 is a form of House Bill 1582, which we debated on Real ID a week ago, and for those of us who believe that we should continue the discussion about the state's participation in Real ID, having a Committee of Conference on this bill would provide an excellent opportunity. So I urge my colleagues to vote in opposition to the nonconcurrency so that we could move for a Committee of Conference. Thank you.

**SENATOR BURLING:** I rise in support of the comments made by Senator Hassan. I'd just like to remind everybody that this is a long process that began in committee. There were umpteen versions and amendments to Real ID, but the fact of the matter is, in a Committee of Conference, we could get a better bill. It would be a bill that included not just the study committee, but maybe even a proscription on some of the behavior that all of us know people shouldn't be pursuing in the state of New Hampshire. I will refer specifically to the prohibition on electronic tracking of individuals without their permission or appropriate court process. So, I, too, wish we could get into Committee of Conference on this.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from Senate:

**HB 1724-FN**, relative to compensation and benefits for reserve and national guard members who are state employees.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Stone, Robert Wheeler, Ingram & Franklin.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1724-FN**, relative to compensation and benefits for reserve and national guard members who are state employees.

Senator Morse moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Barnes, Kenney, Larsen

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SCR 6**, urging Congress to support stem cell research.

**SENATE NONCONCURS WITH HOUSE AMENDMENT**

**SCR 6**, urging Congress to support stem cell research.

Senator Martel moved to nonconcur.

**The question is on the motion to nonconcur.**

**A roll call was requested by Senator Burling.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Johnson, Kenney, Green, Flanders, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**The following Senators voted No: Gallus, Burling, Odell, Gottesman, Foster, Larsen, D'Allesandro, Estabrook, Hassan, Fuller Clark.**

**Yeas: 13 - Nays: 10**

**The motion to nonconcur is adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 358-FN**, relative to an advanced registered nurse practitioner's duty to warn of violent acts of patients.

**SENATE NONCONCURS AND REQUESTS  
A COMMITTEE OF CONFERENCE**

**SB 358-FN**, relative to an advanced registered nurse practitioner's duty to warn of violent acts of patients.

Senator Martel moved to nonconcur and requests a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Martel, Kenney, Fuller Clark

**HOUSE MESSAGE**

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

**SB 358-FN**, relative to an advanced registered nurse practitioner's duty to warn of violent acts of patients.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Dalrymple, Millham, Houde-Quimby & Irwin.

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 295-FN**, relative to registration of business entities.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 295-FN**, relative to registration of business entities.

Senator Bragdon moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 389**, establishing a committee to study energy efficiency programs funded by the system benefits charge.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 389**, establishing a committee to study energy efficiency programs funded by the system benefits charge.

Senator Bragdon moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from Senate:

**HB 349**, relative to placement and removal of political advertising.  
and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** O'Brien, Janet Allen, Millham & Harvey.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 349**, relative to placement and removal of political advertising.

Senator Bragdon moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Roberge, Flanders, Hassan

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from Senate:

**HB 1238-FN**, relative to centralized voter registration database information.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Whalley, Biundo, Reeves & Claudia Chase.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1238-FN**, relative to centralized voter registration database information.

Senator Bragdon moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Green, Bragdon, Larsen

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 245**, repealing laws relative to the municipal courts and the administrative committee of the district and municipal courts.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 245**, repealing laws relative to the municipal courts and the administrative committee of the district and municipal courts.

Senator Foster moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 246**, relative to provisions for permissible contact between the agent of the defendant subject to a protective order and a plaintiff.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 246**, relative to provisions for permissible contact between the agent of the defendant subject to a protective order and a plaintiff.

Senator Foster moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 282-FN-L**, relative to removal of abandoned vehicles.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 282-FN-L**, relative to removal of abandoned vehicles.

Senator Foster moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 286-FN**, relative to notice to defendants in small claims actions.

**SENATE NONCONCURS WITH HOUSE AMENDMENT**

**SB 286-FN**, relative to notice to defendants in small claims actions.

Senator Foster moved to nonconcur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 334**, authorizing the use of a credit freeze as a means of deterring identity theft.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 334**, authorizing the use of a credit freeze as a means of deterring identity theft.

Senator Foster moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 394**, establishing the Trust Modernization and Competitiveness Act.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 394**, establishing the Trust Modernization and Competitiveness Act.

Senator Foster moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 231**, relative to the residency requirement to qualify for the elderly property tax exemption.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 231**, relative to the residency requirement to qualify for the elderly property tax exemption.

Senator Roberge moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 269**, ratifying certain actions at the 1996 Seabrook annual town meeting.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 269**, ratifying certain actions at the 1996 Seabrook annual town meeting.

Senator Roberge moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 287-FN**, making certain changes to the eminent domain statute.

**SENATE NONCONCURS AND REQUESTS  
A COMMITTEE OF CONFERENCE**

**SB 287-FN**, making certain changes to the eminent domain statute.

Senator Roberge moved to nonconcur and requests a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Green, Letourneau, Gottesman

**HOUSE MESSAGE**

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

**SB 287-FN**, making certain changes to the eminent domain statute.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Mooney, Dokmo, Buxton and Shurtleff

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 323**, establishing a legislative youth advisory council.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 323**, establishing a legislative youth advisory council.

Senator Roberge moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendments, in the passage of which amendments the House asks the concurrence of the Senate:

**SB 319**, establishing a task force to study county government.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 319**, establishing a task force to study county government.

Senator Roberge moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 327**, establishing the New Hampshire civil war cannon restoration fund.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 327**, establishing the New Hampshire civil war cannon restoration fund.

Senator Roberge moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 336**, relative to security deposits in landlord tenant matters.

**SENATE NONCONCURS AND REQUESTS  
A COMMITTEE OF CONFERENCE**

**SB 336**, relative to security deposits in landlord tenant matters.

Senator Roberge moved to nonconcur and requests a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Gallus, Martel, Hassan

**HOUSE MESSAGE**

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

**SB 336**, relative to security deposits in landlord tenant matters.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Sorg, Hunt, Buxton and Shurtleff

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 359-FN**, relative to the regulation of plumbers and water treatment technicians by the plumbers' board.

**SENATE NONCONCURS AND REQUESTS  
A COMMITTEE OF CONFERENCE**

**SB 359-FN**, relative to the regulation of plumbers and water treatment technicians by the plumbers' board.

Senator Roberge moved to nonconcur and requests a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Kenney, Roberge, Larsen

### HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

**SB 359-FN**, relative to the regulation of plumbers and water treatment technicians by the plumbers' board.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Ryder, Coburn, Pillotte and Frank Sullivan.

### HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 403**, relative to verification of identity when a person registers or attempts to vote.

### SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

**SB 403**, relative to verification of identity when a person registers or attempts to vote.

Senator Roberge moved to nonconcur and requests a Committee of Conference.

**SENATOR HASSAN:** Thank you, Mr. President. I rise in opposition to the recommendation of a Committee of Conference. Senate Bill 403 has provisions in it that have already been adopted by this body in another bill, and is unnecessary. So I would urge my colleagues to vote against the Committee of Conference so that we could offer a nonconcurrence motion. Thank you.

### Adopted.

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Green, Barnes, Hassan

**CONFeree CHANGE:** Senator Burling replaced Senator Hassan.

### HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

**SB 403**, relative to verification of identity when a person registers or attempts to vote.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Whalley, Reeves, Boehm and Harvey

### HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:



**SB 178**, designating a certain highway the Gold Star Mothers Highway.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 178**, designating a certain highway the Gold Star Mothers Highway.

Senator Letourneau moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 239**, renaming the bridge located on Main Street in Enfield, New Hampshire and crossing the Mascoma River as the Women in Service to Enfield (WISE) Bridge and naming the bridge located on Main Street in Newmarket, New Hampshire and crossing the Lamprey River as the Newmarket Veterans Bridge.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 239**, renaming the bridge located on Main Street in Enfield, New Hampshire and crossing the Mascoma River as the Women in Service to Enfield (WISE) Bridge and naming the bridge located on Main Street in Newmarket, New Hampshire and crossing the Lamprey River as the Newmarket Veterans Bridge.

Senator Letourneau moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 281-FN**, establishing an organ and tissue donor registry.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 281-FN**, establishing an organ and tissue donor registry.

Senator Letourneau moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 310-FN**, establishing gold star number plates and relative to special number plates for veterans.

**SENATE NONCONCURS WITH HOUSE AMENDMENT**

**SB 310-FN**, establishing gold star number plates and relative to special number plates for veterans.

Senator Letourneau moved to nonconcur.

**SENATOR LETOURNEAU:** Thank you, Mr. President. I just want to comment to the body that this in no way reflects the position of the Senate. We've attached the proper language to the House bill and they're going to concur. This particular bill was not the Senate position. Thank you.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 325**, making technical corrections and other changes to motor vehicle laws.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 325**, making technical corrections and other changes to motor vehicle laws.

Senator Letourneau moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 341**, extending by one year the advisory-only period for OBD II testing.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 341**, extending by one year the advisory-only period for OBD II testing.

Senator Letourneau moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 300-FN-A-L**, exempting certain transfers of real estate between charitable organizations from the real estate transfer tax.

**SENATE CONCURS WITH HOUSE AMENDMENT**

**SB 300-FN-A-L**, exempting certain transfers of real estate between charitable organizations from the real estate transfer tax.

Senator D'Allesandro moved to concur.

**Adopted.**

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 363-FN-A-L**, prohibiting the department of revenue administration from collecting any communications services tax that is not permissible under federal law; and establishing a commission to study and determine the effect of ceasing the collection of Internet-related communications services tax.

**SENATE NONCONCURS WITH HOUSE AMENDMENT**

**SB 363-FN-A-L**, prohibiting the department of revenue administration from collecting any communications services tax that is not permissible

under federal law; and establishing a commission to study and determine the effect of ceasing the collection of Internet-related communications services tax.

Senator D'Allesandro moved to nonconcur.

**Adopted.**

### HOUSE MESSAGE

The House of Representatives concurs with the Senate in the passage of the following entitled Bill, with amendment, in the passage of which amendment the House asks the concurrence of the Senate:

**SB 376-FN-A**, relative to revenues dedicated to the education trust fund.

### SENATE NONCONCURS WITH HOUSE AMENDMENT

**SB 376-FN-A**, relative to revenues dedicated to the education trust fund.

Senator D'Allesandro moved to nonconcur.

**SENATOR D'ALLESANDRO:** Thank you, Mr. President. Mr. President, I would hope that we would leave our position of nonconcurrence and agree to set up a Committee of Conference. There seems to be some motivation of the House to relook at this situation, and I'm happy to do that, letting the Senate know that our position, in my opinion, is the right position, and it's a position that we must stand for indeed when we set up, if we consent to setting up a Committee of Conference. It's a very logical situation, and it corrects a number of errors that have been continuously happening over a period of years since we've created the trust and created educational reform. So, I would hope that you would vote against the nonconcurrence and vote for a Committee of Conference. Thank you, Mr. President.

**Motion failed.**

### SENATE NONCONCURS AND REQUESTS A COMMITTEE OF CONFERENCE

**SB 376-FN-A**, relative to revenues dedicated to the education trust fund.

Senator D'Allesandro moved to nonconcur and requests a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Clegg, Morse, D'Allesandro

### HOUSE MESSAGE

The House of Representatives accedes to the request of the Senate for a Committee of Conference on the following entitled Bill:

**SB 376-FN-A**, relative to revenues dedicated to the education trust fund.

and the Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Major, Camm, Whalley and Almy.

Senator Gottesman moved that the Committee on Rules and Enrolled Bills has reviewed the following Enrolled Bill amendments received by the Clerk and approved the amendments and asks for your support.

**May 4, 2006**  
**2006-2197-EBA**  
**03/01**

**Enrolled Bill Amendment to SB 24**

The Committee on Enrolled Bills to which was referred SB 24

AN ACT relative to disposition upon death of patient accounts in nursing homes.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to SB 24**

This enrolled bill amendment inserts an omitted RSA section title.

**Enrolled Bill Amendment to SB 24**

Amend section 1 of the bill by replacing lines 1-2 with the following:

1 Patient Accounts; Disposition of Accounts. Amend RSA 151-A:15 to read as follows:

151-A:15 Patient Accounts; Disposition Upon Death; Testate or Intestate.

I. If [30] *within 180* days after the date of a testate or intestate patient's death in any

**Adopted.**

**April 26, 2006**  
**2006-2081-EBA**  
**05/09**

**Enrolled Bill Amendment to SB 233**

The Committee on Enrolled Bills to which was referred SB 233

AN ACT relative to motorcycle rider education.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to SB 233**

This enrolled bill amendment makes a technical correction.

**Enrolled Bill Amendment to SB 233**

Amend section 1 of the bill by replacing line 1 with the following:

1 Motorcycle Rider Education Program; Standards. Amend RSA 263:34-b, I to read as

**Adopted.**

**April 27, 2006**  
**2006-2089-EBA**  
**04/09**

**Enrolled Bill Amendment to SB 249**

The Committee on Enrolled Bills to which was referred SB 249

AN ACT allowing a master electrician to have 2 apprentice electricians under his or her supervision, and relative to examinations of electricians by the electricians' board.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

## FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to SB 249**

This enrolled bill amendment inserts text which is current law and which was unintentionally omitted from RSA 319-C:6-b as inserted by section 3 of the bill.

**Enrolled Bill Amendment to SB 249**

Amend RSA 319-C:6-b as inserted by section 3 of the bill by replacing it with the following:

319-C:6-b Fees. The board, with the approval of the commissioner of safety, shall establish *application* fees for examination of applicants, *fees* for licensure, for renewal, and for late renewal of licenses to practice under this chapter, and for transcribing and transferring records and other services. *The fee for computerized examination shall not include fees charged by and paid to a computerized examination company approved by the board.* The fees established by the board shall be sufficient to produce estimated revenues equal to 125 percent of the direct operating expenses of the board for the previous fiscal year. Fees collected shall be deposited in the fire standards and training and emergency medical services fund, established in RSA 21-P:12-d, and used for the purposes of operating expenses of the electricians' board. Fees collected in excess of actual operating expenses shall be deposited in the general fund as unrestricted revenue.

**Adopted.**

**May 3, 2006**

**2006-2172-EBA**

**08/10**

**Enrolled Bill Amendment to SB 273**

The Committee on Enrolled Bills to which was referred SB 273

AN ACT relative to reasonable accommodations for employees with disabilities.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

## FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to SB 273**

This enrolled bill amendment makes a grammatical correction.

**Enrolled Bill Amendment to SB 273**

Amend RSA 354-A:7, VII(a) as inserted by section 2 of the bill by replacing line 1 with the following:

VII.(a) For any employer not to make reasonable accommodations for the known physical or

**Adopted.**

**April 11, 2006**

**2006-1728-EBA**

**05/09**

**Enrolled Bill Amendment to SB 289-FN**

The Committee on Enrolled Bills to which was referred SB 289-FN

AN ACT relative to the brain and spinal cord advisory council.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

## FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to SB 289-FN**

This enrolled bill amendment makes technical corrections.

**Enrolled Bill Amendment to SB 289-FN**

Amend RSA 137-K:2, IV as inserted by section 1 of the bill by replacing line 4 with the following:

manner as the original appointment. Such appointment shall complete the original member's

Amend RSA 137-K:2, VII(f) as inserted by section 1 of the bill by replacing line 1 with the following:

(f) Review the status of the brain injury program, established under RSA 137-K:9, and

**Adopted.**

**April 28, 2006**

**2006-2095-EBA**

**03/01**

**Enrolled Bill Amendment to SB 342**

The Committee on Enrolled Bills to which was referred SB 342

AN ACT relative to the treatment of glaucoma by optometrists.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

## FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to SB 342**

This enrolled bill amendment corrects certain references in the bill and makes technical corrections.

**Enrolled Bill Amendment to SB 342**

Amend RSA 327:6-a, VII as inserted by section 2 of the bill by replacing line 1 with the following:

VII. The board shall provide the pharmacy board with a current list of pharmaceutical

Amend RSA 327:6-c, I(c) as inserted by section 4 of the bill by replacing line 4 with the following:

*Department of Defense or Department of Veteran Affairs or the national Indian Health*

Amend RSA 327:6-c, II(b)(3) as inserted by section 4 of the bill by replacing line 1 with the following:

~~[(iii)]~~ (3) The ophthalmologist[-] examines the patient and reviews the optometrist's

Amend section 5 of the bill by replacing line 1 with the following:

5 Disciplinary Proceedings; Misconduct. Amend RSA 327:20, II(g) and (h) to read as follows:

**Adopted.**

**April 19, 2006**

**2006-1916-EBA**

**03/01**

**Enrolled Bill Amendment to HB 115**

The Committee on Enrolled Bills to which was referred HB 115

AN ACT allowing pharmacists to establish collaborative practice agreements with medical practitioners.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to HB 115**

This enrolled bill amendment corrects certain references in the bill.

**Enrolled Bill Amendment to HB 115**

Amend RSA 318:1, XVI as inserted by section 2 of the bill by replacing line 5 with the following:

complying with rules adopted pursuant to RSA 318:5-a, XV. Prescriptions may also apply to the

Amend RSA 318:16-a, I(e) as inserted by section 6 of the bill by replacing line 2 with the following:

programs approved by the Accreditation Council for Pharmacy Education (ACPE) or curriculum-

**Adopted.**

**March 14, 2006**

**2006-1361-EBA**

**06/09**

**Enrolled Bill Amendment to HB 380**

The Committee on Enrolled Bills to which was referred HB 380

AN ACT relative to absentee voting.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to HB 380**

This enrolled bill amendment makes technical corrections.

**Enrolled Bill Amendment to HB 380**

Amend RSA 657:21-a, I as inserted by section 1 of the bill by replacing line 7 with the following:

necessary to vote to be transported to the emergency services workers and to be returned to the town or

Amend RSA 657:21-a, VII as inserted by section 1 of the bill by replacing line 4 with the following:

this section, to allow after-hours and weekend notification to the secretary of state that this section is

**Adopted.**

**March 24, 2006**

**2006-1523-EBA**

**04/09**

**Enrolled Bill Amendment to HB 590**

The Committee on Enrolled Bills to which was referred HB 590

AN ACT excluding stepchildren from the definition of "child" in the context of support orders.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to HB 590**

This enrolled bill amendment changes the effective date section to eliminate a retrospective effective date.

**Enrolled Bill Amendment to HB 590**

Amend the bill by replacing section 9 with the following:

9 Effective Date. This act shall take effect upon its passage.

**Adopted.**

**March 16, 2006**

**2006-1421-EBA**

**08/10**

**Enrolled Bill Amendment to HB 653-FN-LOCAL**

The Committee on Enrolled Bills to which was referred HB 653-FN-LOCAL

AN ACT relative to bonds for construction, development, improvement, and acquisition of broadband facilities.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to HB 653-FN-LOCAL**

This enrolled bill amendment makes a technical correction.

**Enrolled Bill Amendment to HB 653-FN-LOCAL**

Amend section 6 of the bill by replacing line 5 with the following:

I. In this subdivision:

**Adopted.**

**April 14, 2006**

**2006-1834-EBA**

**04/09**

**Enrolled Bill Amendment to HB 657-FN-LOCAL**

The Committee on Enrolled Bills to which was referred HB 657-FN-LOCAL

AN ACT relative to promoting community revitalization.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to HB 657-FN-LOCAL**

This enrolled bill amendment makes grammatical and technical corrections.

**Enrolled Bill Amendment to HB 657-FN-LOCAL**

Amend RSA 79-E:5, III as inserted by section 1 of the bill by replacing line 4 with the following:

within and important to a locally designated historic district, provided that the substantial



Amend RSA 79-E:7, II as inserted by section 1 of the bill by replacing line 2 with the following:  
local, regional, state, or national level, either independently or within the context of an historic district,

Amend RSA 79-E:9, II(b) as inserted by section 1 of the bill by replacing line 2 with the following:  
triplicate copy of the form shall be given to the collector of taxes for collection of the payment along

**Adopted.**

**April 26, 2006**  
**2006-2074-EBA**  
**08/01**

**Enrolled Bill Amendment to HB 688-FN**

The Committee on Enrolled Bills to which was referred HB 688-FN  
AN ACT relative to the regulation of mental health practitioners and the procedures of the board of mental health.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 688-FN**

This enrolled bill amendment makes a grammatical correction.

**Enrolled Bill Amendment to HB 688-FN**

Amend section 7 of the bill by replacing line 4 with the following:  
complaints, and the final disciplinary actions by the board, including those actions that occur without

**Adopted.**

**May 1, 2006**  
**2006-2108-EBA**  
**04/01**

**Enrolled Bill Amendment to HB 719-FN**

The Committee on Enrolled Bills to which was referred HB 719-FN  
AN ACT recodifying the Articles 1 and 7 of the Uniform Commercial Code and relative to lobbyist name tags.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 719-FN**

This enrolled bill amendment makes grammatical and technical corrections to the bill.

**Enrolled Bill Amendment to HB 719-FN**

Amend RSA 382-A:1-103(b) as inserted by section 1 of the bill by replacing it with the following:

(b) Unless displaced by the particular provisions of this chapter, the principles of law and equity, including the law of merchants and the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, and other validating or invalidating causes supplement its provisions.

Amend RSA 382-A:1-201(b)(16) as inserted by section 1 of the bill by replacing line 3 with the following:  
entitled to receive, control, hold, and dispose of the record and the goods the record covers and (ii) that

Amend RSA 382-A:1-303(c) as inserted by section 1 of the bill by replacing lines 3-4 with the following:  
respect to the transaction in question. The existence and scope of such a usage must be proved as fact. If it is established that such a usage is embodied in a trade code or similar record, the

**Adopted.**

**May 4, 2006**  
**2006-2180-EBA**  
**05/01**

**Enrolled Bill Amendment to HB 1215**

The Committee on Enrolled Bills to which was referred HB 1215

AN ACT relative to the winter maintenance of Diamond Pond Road in the towns of Colebrook and Stewartstown.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1215**

This enrolled bill amendment makes a technical correction.

**Enrolled Bill Amendment to HB 1215**

Amend section 1 of the bill by replacing line 2 with the following:  
by 1985, 160:1, to read as follows:

**Adopted.**

**April 17, 2006**  
**2006-1845-EBA**  
**06/10**

**Enrolled Bill Amendment to HB 1231-FN**

The Committee on Enrolled Bills to which was referred HB 1231-FN

AN ACT relative to the penalty for assaulting a firefighter, licensed emergency medical care provider, or law enforcement officer.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1231-FN**

This enrolled bill amendment makes a grammatical correction.

**Enrolled Bill Amendment to HB 1231-FN**

Amend section 1 of the bill by replacing line 4 with the following:  
enforcement officer, *a paid firefighter, volunteer firefighter, on-call firefighter, or licensed*

**Adopted.**

**April 28, 2006**  
**2006-2102-EBA**  
**08/09**

**Enrolled Bill Amendment to HB 1330**

The Committee on Enrolled Bills to which was referred HB 1330

AN ACT clarifying the laws relative to municipal enrollment in the National Flood Insurance Program and relative to adopting flood insurance rate map amendments.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1330**

This enrolled bill amendment makes a technical correction.

**Enrolled Bill Amendment to HB 1330**

Amend RSA 674:57 as inserted by section 2 of the bill by replacing line 6 with the following:

Map amendments are subject to appeal by owners and lessees of affected real property under

**Adopted.**

**April 19, 2006**  
**2006-1899-EBA**  
**05/09**

**Enrolled Bill Amendment to HB 1452-FN**

The Committee on Enrolled Bills to which was referred HB 1452-FN

AN ACT requiring insurance coverage for the cost of testing for bone marrow donation.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1452-FN**

This enrolled bill amendment renumbers certain RSA sections to avoid duplicating the numbering of RSA sections inserted by SB 175 (2006, 8).

**Enrolled Bill Amendment to HB 1452-FN**

Amend section 1 of the bill by replacing lines 2-3 with the following: inserting after section 6-l the following new section:

415:6-m Coverage for the Cost of Testing for Bone Marrow Donation. Each insurer that issues or

Amend section 2 of the bill by replacing lines 2-3 with the following: inserting after section 18-q the following new section:

415:18-r Coverage for the Cost of Testing for Bone Marrow Donation. Each insurer that issues

Amend section 3 of the bill by replacing lines 6-7 with the following: II(4), RSA 415:6-g, RSA 415:6-k, **RSA 415:6-m**, RSA 415:18, V, RSA 415:18, VII(g), RSA 415:18, VII-a, RSA 415:18-a, RSA 415:18-j, RSA 415:18-o, **RSA 415:18-r**, RSA 415:22, RSA 417, RSA 417-E,

Amend section 4 of the bill by replacing line 4 with the following:  
**RSA 415:6-m**, RSA 415:18, VII(g), RSA 415:18, VII-a, RSA 415:18-j, **RSA 415:18-r**, RSA 415-A,

**Adopted.**

**April 13, 2006**  
**2006-1830-EBA**  
**08/01**

**Enrolled Bill Amendment to HB 1455-FN-A**

The Committee on Enrolled Bills to which was referred HB 1455-FN-A AN ACT relative to the disposal of video display devices.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1455-FN-A**

This enrolled bill amendment makes a technical correction.

**Enrolled Bill Amendment to HB 1455-FN-A**

Amend section 1 of the bill by replacing line 3 with the following:  
XXVIII. "Video display device" means a visual display component of a television or a

**Adopted.**

**April 28, 2006**  
**2006-2094-EBA**  
**03/01**

**Enrolled Bill Amendment to HB 1536**

The Committee on Enrolled Bills to which was referred HB 1536 AN ACT relative to bonds required from persons excavating or disturbing certain highways.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1536**

This enrolled bill amendment clarifies a reference in the bill.

**Enrolled Bill Amendment to HB 1536**

Amend RSA 236:10 as inserted by section 1 of the bill by replacing line 3 with the following:  
bond satisfactory to ~~[him]~~ **such person or entity** be furnished to the state, city, or town providing for the satisfactory

**Adopted.**

**April 27, 2006**  
**2006-2099-EBA**  
**04/10**

**Enrolled Bill Amendment to HB 1630-LOCAL**

The Committee on Enrolled Bills to which was referred HB 1630-LOCAL AN ACT relative to land use change taxes imposed for certain road construction on rights-of-way.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to HB 1630-LOCAL**

This enrolled bill amendment makes grammatical corrections to the bill.

**Enrolled Bill Amendment to HB 1630-LOCAL**

Amend RSA 79-A:7, VI(e) as inserted by section 1 of the bill by replacing line 1 with the following:

(e) A road is constructed on an existing right-of-way on current use land solely for the

Amend RSA 79-A:7, VI(e) as inserted by section 1 of the bill by replacing line 5 with the following:

that if such road construction on an existing right-of-way would constitute a change in use if done by

**Adopted.**

**April 14, 2006**  
**2006-1833-EBA**  
**03/01**

**Enrolled Bill Amendment to HB 1633-FN**

The Committee on Enrolled Bills to which was referred HB 1633-FN AN ACT relative to membership, eligibility, and financing of the New Hampshire retirement system.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to HB 1633-FN**

This enrolled bill amendment changes the method for amending RSA 100-A:41-a, II in section 7 of the bill to avoid a conflict with the provisions of HB 1128-FN of the 2006 regular session.

**Enrolled Bill Amendment to HB 1633-FN**

Amend the bill by replacing section 7 with the following:

7 Supplemental Allowances. RSA 100-A:41-a, II is repealed and reenacted to read as follows:

II. No later than May 31 of each year, the fiscal committee of the general court may approve COLAs for the July 1 thereafter upon certification from the actuary of the amount of the COLA which may be granted to each member classification based on the funds available in the special account for each member classification. The actuary shall look at each member classification component of the special account separately and shall certify to the fiscal committee the funds available, and any other information required by the committee, including but not limited to any change in the Consumer Price Index-Urban for the year prior to the year in which the allowance is granted. Any such supplemental allowance when granted by the fiscal committee of the general court shall become a permanent addition to the beneficiary's base retirement allowance, and shall be included in the monthly annuity paid to the retired member, or to the member's ben-

eficiary if the member is deceased and the beneficiary is receiving an allowance under RSA 100-A:8, 100-A:9, 100-A:12, 100-A:13, 100-A:19, the provisions of former RSA 100-A:16, I(c)(2) relative to additional contributions, or similar provisions of predecessor systems.

**Adopted.**

**April 14, 2006**  
**2006-1836-EBA**  
**08/01**

**Enrolled Bill Amendment to HB 1657**

The Committee on Enrolled Bills to which was referred HB 1657

AN ACT establishing a wildlife legacy initiative for gifts and donations for fish and wildlife conservation programs.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1657**

This enrolled bill amendment rennumbers an RSA section to avoid a conflict with 2006, 18 (HB 1658).

**Enrolled Bill Amendment to HB 1657**

Amend section 1 of the bill by replacing lines 2 and 3 with the following: section 33-c the following new section:

206:33-d Wildlife Legacy Initiative; Account Established.

Amend section 2 of the bill by replacing line 4 with the following: initiative account under RSA 206:33-d established in section 1 of this act.

Amend section 3 of the bill by replacing line 4 with the following account under RSA 206:33-d.

**Adopted.**

**April 13, 2006**  
**2006-1827-EBA**  
**03/09**

**Enrolled Bill Amendment to HB 1715-FN**

The Committee on Enrolled Bills to which was referred HB 1715-FN

AN ACT relative to funding of the professional assistance program of dentists.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1715-FN**

This enrolled bill amendment makes a typographical correction.

**Enrolled Bill Amendment to HB 1715-FN**

Amend section 1 of the bill by replacing line 1 with the following:

1 Board of Dental Examiners; Duties; Professional Assistance Program.  
Amend RSA 317-A:4,

**Adopted.**

**April 20, 2006**  
**2006-1943-EBA**  
**03/10**

**Enrolled Bill Amendment to HB 1718-FN**

The Committee on Enrolled Bills to which was referred HB 1718-FN  
AN ACT requiring a written disclosure statement be provided to prospective nursing home facility clients.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1718-FN**

This enrolled bill amendment makes a technical correction to a bill section heading and corrects a term to make it consistent with prior usage in the bill.

**Enrolled Bill Amendment to HB 1718-FN**

Amend section 1 of the bill by replacing line 1 with the following:

1 New Section; Medical Services. Amend RSA 151 by inserting after Amend RSA 151:25-a, V as inserted by section 1 of the bill by replacing line 1 with the following:

V. A statement affirming that the prospective client has received the nursing home disclosure

**Adopted.**

**April 20, 2006**  
**2006-1952-EBA**  
**05/09**

**Enrolled Bill Amendment to HB 1722-FN**

The Committee on Enrolled Bills to which was referred HB 1722-FN  
AN ACT relative to the New Hampshire council on developmental disabilities.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1722-FN**

This enrolled bill amendment makes technical and grammatical changes.

**Enrolled Bill Amendment to HB 1722-FN**

Amend RSA 19-J:3, I(a) as inserted by section 1 of the bill by replacing line 1 with the following:

(a) Individuals with developmental disabilities and parents or guardians of adults with

Amend RSA 19-J:5 as inserted by section 1 of the bill by replacing line 3 with the following:

that affect persons with developmental disabilities. The chairperson, with the input of the council,

Amend RSA 19-J:6, VIII as inserted by section 1 of the bill by replacing line 1 with the following:

VIII. To support and conduct activities to eliminate barriers to access and use of community

Amend RSA 19-J:6, IX as inserted by section 1 of the bill by replacing line 1 with the following:

IX. To support and conduct activities to educate the public about the capabilities, preferences,

Amend RSA 19-J:6, X as inserted by section 1 of the bill by replacing line 1 with the following:

X. To support and conduct activities to provide information to federal, state, and local

Amend RSA 19-J:6, XI as inserted by section 1 of the bill by replacing it with the following:

XI. To support and conduct demonstrations of new approaches to services and supports.

Amend RSA 19-J:6, XII as inserted by section 1 of the bill by replacing line 1 with the following:

XII. To support and conduct other advocacy, capacity building, and systemic change activities

**Adopted.**

### **SUSPENSION OF THE RULES**

Senator Clegg moved that we amend Rule #48-J, deadlines of Committee of Conference from Thursday, May 18, 2006 to Friday, May 19, 2006 at 3:00 p.m.

**Adopted by the necessary 2/3 vote.**

### **HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from Senate:

**HB 1126**, relative to licenses for first mortgage bankers, brokers, pawn-brokers, and money lenders.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Sheila Francoeur, Charles Clark, Stepanek & Reardon.

### **A COMMITTEE OF CONFERENCE**

**HB 1126**, relative to licenses for first mortgage bankers, brokers, pawn-brokers, and money lenders.

Senator Flanders moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Flanders, Roberge, Gottesman

**CONFEREES:** Senator Gallus replaced Senator Roberge.

### **HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:



**HB 1194**, relative to job protection for firefighters, rescue workers, and emergency medical personnel.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Sheila Francoeur, Infantine, Stella Scamman, Hofemann.

### **SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE**

**HB 1194**, relative to job protection for firefighters, rescue workers, and emergency medical personnel.

Senator Flanders moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Clegg, Flanders, Gottesman

### **HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from Senate:

**HB 1334**, establishing a committee to study the effect on the unemployment compensation trust fund of employers with negative balance separate accounts.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Sheila Francoeur, Infantine, Bishop & DeStefano.

### **SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE**

**HB 1334**, establishing a committee to study the effect on the unemployment compensation trust fund of employers with negative balance separate accounts.

Senator Flanders moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Barnes, Gallus, D'Allesandro

### **HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from Senate:

**HB 1373**, establishing a commission to study ways to encourage the proper recycling and disposal of grease trap wastes and to determine ways to develop additional disposal capacity.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Burton Williams, Babson, Currier and Powers.

### **SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE**

**HB 1373**, establishing a commission to study ways to encourage the proper recycling and disposal of grease trap wastes and to determine ways to develop additional disposal capacity.

Senator Johnson moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Johnson, Gallus, Burling

### **HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 1574**, relative to membership on the public employees deferred compensation commission.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Bergin, Dexter, Houde-Quimby & Sheila Francoeur.

### **SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE**

**HB 1574**, relative to membership on the public employees deferred compensation commission.

Senator Kenney moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Kenney, Flanders, Fuller Clark

### **HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 76**, relative to distribution of state aid to charter schools.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Balboni, Claire Clarke, Hughes & Rous.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 76**, relative to distribution of state aid to charter schools.

Senator Morse moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Green, Johnson, D'Allesandro

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 638-FN**, relative to county and state financing of nursing home services.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** King, Kurk, Rodeschin & Nordgren.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 638-FN**, relative to county and state financing of nursing home services.

Senator Morse moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Morse, Green, Larsen

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 678-FN**, relative to the insurance premium tax.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Sheila Francoeur, Reardon, Major & Robert Wheeler.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 678-FN**, relative to the insurance premium tax.

Senator Morse moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Gatsas, Clegg, D'Allesandro

### **HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from Senate:

**HB 1331**, relative to the New Hampshire Temporary Assistance to Needy Families (TANF) program.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Batula, Hager, MacKay & Wallner.

### **SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE**

**HB 1331**, relative to the New Hampshire Temporary Assistance to Needy Families (TANF) program.

Senator Morse moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Morse, Gatsas, Fuller Clark

### **HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from Senate:

**HB 1429**, relative to municipal exemptions for hazardous waste cleanup liability.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Burton Williams, Babson, Phinizy & Patten.

### **SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE**

**HB 1429**, relative to municipal exemptions for hazardous waste cleanup liability.

Senator Morse moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Green, Barnes, Larsen

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 1459-FN-A**, relative to the department of regional community-technical colleges and making an appropriation therefor.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Weyler, Eric Anderson, Marjorie Smith & Chandler.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1459-FN-A**, relative to the department of regional community-technical colleges and making an appropriation therefor.

Senator Morse moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Green, Morse, Estabrook

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from Senate:

**HB 1590-FN**, relative to the pari-mutuel commission.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Fitzgerald, Manney, Francis Sullivan & Harding.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1590-FN**, relative to the pari-mutuel commission.

Senator Morse moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Barnes, Gallus, D'Allesandro

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from Senate:

**HB 1613FN-L**, relative to polling place arrangement and accessibility.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Drisko, Boehm, Whalley & Coates.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1613-FN-L**, relative to polling place arrangement and accessibility. Senator Morse moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Bragdon, Barnes, Hassan

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 1626-FN-A**, relative to appropriations for the expenses of certain departments of the state.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Stone, Robert Wheeler, King & Pappas.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1626-FN-A**, relative to appropriations for the expenses of certain departments of the state.

Senator Morse moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Morse, Green, Estabrook

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 1697-FN**, relative to certain state salaries.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Robert Wheeler, Stone, Franklin & Bergin.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1697-FN**, relative to certain state salaries.

Senator Morse moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Green, Clegg, D'Allesandro

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 1710-FN-A**, relative to appropriations to the department of health and human services for home care providers and community mental centers and making an appropriation to increase the hourly rate of pay for direct care providers for persons with developmental and acquired disabilities and extending the provision of supplemental pharmacy assistance.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Hager, Wendelboe, Nordgren & MacKay.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1710-FN-A**, relative to appropriations to the department of health and human services for home care providers and community mental centers and making an appropriation to increase the hourly rate of pay for direct care providers for persons with developmental and acquired disabilities and extending the provision of supplemental pharmacy assistance.

Senator Morse moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Morse, Gatsas, D'Allesandro

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 529**, relative to the determination of parental rights and responsibilities.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Itse, Bickford, Cady & Matarazzo.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 529**, relative to the determination of parental rights and responsibilities.

Senator Foster moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Roberge, Odell, Foster

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 587**, relative to child abuse and neglect investigations by the department of health and human services.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Itse, Souza, Ginsburg & Walz.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 587**, relative to child abuse and neglect investigations by the department of health and human services.

Senator Foster moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Clegg, Odell, Gottesman

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 656-FN**, relative to medical decision making for those adults without capacity to make health care decisions for themselves and establishing procedures for Do Not Resuscitate Orders.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Dokmo, Mooney, Rowe & Wall.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 656-FN**, relative to medical decision making for those adults without capacity to make health care decisions for themselves and establishing procedures for Do Not Resuscitate Orders.



Senator Foster moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Clegg, Odell, Foster

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 1332**, establishing a commission to study health care in New Hampshire correctional facilities.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** MacKay, Chaplin, Barry & Schulze.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1332**, establishing a commission to study health care in New Hampshire correctional facilities.

Senator Foster moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Letourneau, Martel, Fuller Clark

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 1516**, relative to the modification and enforcement of child support orders.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Bickford, Itse, Foote & Walz.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1516**, relative to the modification and enforcement of child support orders.

Senator Foster moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Roberge, Letourneau, Gottesman

**CONFEREE CHANGE:** Senator Gatsas replaced Senator Letourneau.

### **HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 1692-FN**, establishing the New Hampshire sexual predators act. and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Dowling, Tholl, Welch & Knowles.

### **SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE**

**HB 1692-FN**, establishing the New Hampshire sexual predators act.

Senator Foster moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Gatsas, Clegg, Foster

### **HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 1720-FN**, relative to notice of parent liability in CHINS proceedings. and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Bickford, Foote, Flockhart & Walz.

### **SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE**

**HB 1720-FN**, relative to notice of parent liability in CHINS proceedings.

Senator Foster moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Letourneau, Roberge, Foster

### **HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from Senate:

**HB 1761**, relative to hold over tenants in vacation or recreational rental units.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** O'Neil, Dokmo, O'Brien & Lasky.

### **SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE**

**HB 1761**, relative to hold over tenants in vacation or recreational rental units

Senator Clegg moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Clegg, Roberge, Gottesman

### **HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from Senate:

**HB 506**, including employees of charitable organizations under the protection of the state law against discrimination.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Infantine, Balboni, Gorman & Carson.

### **SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE**

**HB 506**, including employees of charitable organizations under the protection of the state law against discrimination.

Senator Bragdon moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Bragdon, Flanders, Hassan

### **HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 1474-FN**, relative to unemployment compensation contribution rates and benefits.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Infantine, O'Neil, Herbert Richardson & Goley.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1474-FN**, relative to unemployment compensation contribution rates and benefits.

Senator D'Allesandro moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Green, Morse, D'Allesandro

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 1744-FN-A**, authorizing the pari-mutuel commission to regulate games of chance conducted by charitable organizations and relative to tournaments conducted by charitable organizations where chips have no monetary face value.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Fitzgerald, Manney, Francis Sullivan & Velez.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1744-FN-A**, authorizing the pari-mutuel commission to regulate games of chance conducted by charitable organizations and relative to tournaments conducted by charitable organizations where chips have no monetary face value.

Senator D'Allesandro moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Boyce, Odell, D'Allesandro

**CONFeree CHANGE:** Senator Martel replaced Senator Boyce.

**Recess.**

**Out of recess.**

### HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 1582**, prohibiting New Hampshire from participating in a national identification card system.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Packard, Nedeau, Ferland & Kurk.

### SENATE REFUSES TO ACCEDE TO HOUSE REQUEST

**HB 1582**, prohibiting New Hampshire from participating in a national identification card system.

Senator Barnes moved to refuse to accede to the request for a Committee of Conference.

### PARLIAMENTARY INQUIRY

**SENATOR BURLING:** Thank you, Mr. President. This is such an important issue. We have spoken in this Senate about it. We should accede to a Committee of Conference. Parliamentary inquiry, Mr. President. Did I mishear you when you...would you tell us again?

**SENATOR GATSAS (In the Chair):** You heard me correctly. Senator Barnes recommends that the Senate refuse to accede to the House request for a Committee of Conference on House Bill 1582.

**SENATOR BURLING:** Thank you, Mr. President. It's late in the day. I didn't trust my ears. I speak against that motion, and ask that we strike down the motion and then move to accede to the Committee of Conference. This is a critical issue, it is vital to the interest of the state of New Hampshire. It will be a budget buster if we do not avert New Hampshire's headlong plunge towards Real ID. So I ask you to vote down this motion, so that we could move to enter a Committee of Conference.

**SENATOR FOSTER:** I guess of Senator Barnes or somebody from the Fiscal Committee, if somebody wants to take a question. As I understood it last week, on the agenda was whether the state should accept the money to become a pilot state. That was put off for a month, and I guess I was wondering that, without a study of any kind, how would we know whether or not to accept that money? I thought some of the reason that was put off was to perhaps get the commission going, and to begin to make some findings as to whether it was wise for us to get involved in that process.

**SENATOR CLEGG:** Senator, at this time, I can tell you that members of the Fiscal Committee aren't ready to accept the grant outright, but would probably consider acceptance with some caveats, meaning that, under no circumstances, would we be strapped forever with Real ID, but if the \$3 million was given to us to upgrade the computers with the ability to opt out, then it might receive some favorable comments. But right now, the Committee is not ready to accept it.

SENATOR FOSTER: Although I opposed it, many of you in here voted for a commission and a study, and I thought part of that was to get our arms around the issue. Wouldn't that be helpful in trying to decide whether to take those funds, and what conditions you might want to put forward?

SENATOR CLEGG: Senator, there's nothing that stops us from doing an ad hoc committee, and my recommendation to the Senate President is that, regardless of whether the House likes us or not, that we put together, at least from the Senate perspective, that same committee so that when we come back in January, we know exactly what it is we need to do. If the House isn't interested in that, then so be it.

SENATOR FOSTER: Thank you.

**Recess.**

**Out of recess.**

### **PARLIAMENTARY INQUIRY**

SENATOR CLEGG: Mr. President, a parliamentary inquiry. If I agree with Senator Barnes that I do not want to have a Committee of Conference, would my vote be yes to the motion?

SENATOR GATSAS (In the Chair): Yes.

SENATOR CLEGG: Thank you.

**The question is on the motion to refuse to accede.**

**A roll call was requested by Senator Hassan.**

**Seconded by Senator Burling.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Green, Flanders, Odell, Roberge, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**The following Senators voted No: Burling, Gottesman, Foster, D'Allesandro, Estabrook, Hassan, Fuller Clark.**

**Yeas: 14 - Nays: 7**

**The motion to refuse to accede is adopted.**

**Senators Eaton and Larsen are excused for the vote on HB 1582.**

### **HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 1752**, requiring notice regarding the classifications of employee and independent contractor.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Infantine, O'Neil, Adams & Gorman.

### **SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE**

**HB 1752**, requiring notice regarding the classifications of employee and independent contractor.

Senator Flanders moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Clegg, Barnes, Hassan

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from Senate:

**HB 1343**, relative to the duties of the council on resources and development.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Chandler, Rausch, Waterhouse & Cloutier.

**ALTERNATE:** Representative Graham.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1343**, relative to the duties of the council on resources and development.

Senator Clegg moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Morse, Clegg, D'Allesandro

**CONFeree CHANGE:** Senator Gatsas replaced Senator Morse.

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 1426**, granting a right-of-way over state-owned land.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Graham, David Campbell, O'Connell & Bouchard.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1426**, granting a right-of-way over state-owned land.

Senator Clegg moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Kenney, Flanders, Burling

Senator Morse (Rule #42) on HB 1426.

### **HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 1146**, establishing a committee to study renewable portfolio standards.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Ross, Ober, Hansen & Cali-Pitts.

### **SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE**

**HB 1146**, establishing a committee to study renewable portfolio standards.

Senator Odell moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Odell, Green, Fuller Clark

### **HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment to the following entitled Bill sent down from Senate:

**HB 1491**, establishing a committee to study the publicly owned treatment plant needs of New Hampshire.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Currier, Mary Ellen Martin, Keans & Spang.

### **SENATE ACCEDES TO HOUSE REQUEST FOR A COMMITTEE OF CONFERENCE**

**HB 1491**, establishing a committee to study the publicly owned treatment plant needs of New Hampshire.

Senator Odell moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Green, Bragdon, Hassan



**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from Senate:

**HB 1758**, classifying biodiesel as a renewable energy source.  
and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Maxfield, Slocum, Kaen & Stohl.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1758**, classifying biodiesel as a renewable energy source.

Senator Odell moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Green, Letourneau, Burling

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from Senate:

**HB 1315**, relative to the definition and classification of dams.  
and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Currier, Irish, Ahlgren & Spang.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1315**, relative to the definition and classification of dams.

Senator Morse moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Johnson, Eaton, Hassan

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from Senate:

**HB 1407-FN-A**, relative to funding exotic aquatic weeds eradication and control.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Currier, Major, Sanders & Cilley.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1407-FN-A**, relative to funding exotic aquatic weeds eradication and control.

Senator Morse moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Boyce, Barnes, Burling

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from Senate:

**HB 1603-FN**, relative to administration and enforcement by the division of forests and lands over forest resources and timber harvesting. and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Currier, Bergin, Russell & Parkhurst.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1603-FN**, relative to administration and enforcement by the division of forests and lands over forest resources and timber harvesting.

Senator Morse moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Gallus, Johnson, Hassan

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from Senate:

**HB 1690**, relative to renewable energy. and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** King, O'Neil, Ross & Bouchard.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1690**, relative to renewable energy.

Senator Morse moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Clegg, Morse, Burling

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from Senate:

**HB 1767-FN-A**, authorizing the state acquisition of real estate destroyed in the October 2005 floods, establishing a commission to determine the appropriate use of the property, and making an appropriation therefor. and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Robert Wheeler, Stone, Kurk & Daniel Eaton.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1767-FN-A**, authorizing the state acquisition of real estate destroyed in the October 2005 floods, establishing a commission to determine the appropriate use of the property, and making an appropriation therefor.

Senator Morse moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Odell, Morse, Burling

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendments to the following entitled Bill sent down from Senate:

**HB 1508**, relative to acceptance of applications by planning boards. and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Dowd, Brundige, Patten & Nancy Johnson.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1508**, relative to acceptance of applications by planning boards.

Senator Roberge moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Morse, Kenney, Hassan

**HOUSE MESSAGE**

The House of Representatives refuses to concur with the Senate in the adoption of the amendment(s) to the following entitled Bill sent down from Senate:

**HB 1463-FN**, relative to boating and water safety.

and requests a Committee of Conference.

The Speaker, on the part of the House of Representatives, has appointed as members of said Committee of Conference:

**REPRESENTATIVES:** Currier, D.L. Chris Christensen, Russell & Brueggemann.

**SENATE ACCEDES TO HOUSE REQUEST FOR  
A COMMITTEE OF CONFERENCE**

**HB 1463-FN**, relative to boating and water safety.

Senator Letourneau moved to accede to the request for a Committee of Conference.

**Adopted.**

The President, on the part of the Senate, has appointed as members of said Committee of Conference:

**SENATORS:** Green, Clegg, Burling

**CONFeree CHANGE:** Senator Letourneau replaced Senator Green.

**HOUSE MESSAGE**

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

**HB 1273**, relative to the disposition and retention of municipal records, legalizing the September 13, 2005 special meeting of the town of Brookline, legalizing the March 14, 2006 vote by the town of East Kingston to approve a bond financing a new police station, and legalizing the March 2006 Article 2 petitioned warrant article of the town of Sandown.

**REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

**HB 689-FN** relative to the jurisdiction of the New Hampshire commission for human rights over housing discrimination cases.

**HB 1249-FN-A-L**, relative to state reimbursement for school breakfasts and making an appropriation therefor.

**HB 1273**, relative to the disposition and retention of municipal records, legalizing the September 13, 2005 special meeting of the town of Brookline, legalizing the March 14, 2006 vote by the town of East Kingston to approve a bond financing a new police station, and legalizing the March 2006 Article 2 petitioned warrant article of the town of Sandown.

**HB 1278**, increasing the fine for violating certain laws relative to labor.

**HB 1478**, relative to penalties for employers who give false or incomplete required information about employees to the department of employment security and establishing an amnesty period for certain unpaid contributions.

**HB 1588**, relative to unemployment compensation requirements for governmental and non-profit employers.

**HB 1593-FN-L**, relative to the construction of high school athletic fields in the town of Bedford.

**HB 1611-FN**, relative to reimbursement for personal care services.

**HB 1683-FN**, establishing a homestead food license for residential, non-commercial kitchens.

**HB 1725-FN**, extending the pilot project relative to abuse and neglect hearings and relative to confidentiality in pilot project abuse and neglect cases.

**HB 1745-FN**, relative to methamphetamine-related crimes involving children and incapacitated adults.

Senator D'Allesandro moved adoption.

**Adopted.**

## **RESOLUTION**

Senator Clegg moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time, that all bills and resolutions ordered to third reading be, by this resolution, read a third time, all titles be the same as adopted, and that they be passed at the present time.

**Adopted.**

## **LATE SESSION**

### **Third Reading and Final Passage**

**HB 2006**, relative to the state 10-year transportation improvement plan, the exemption of highway projects from eminent domain, improvements on the FE Everett Turnpike/I-293 and certain segments of N.H. 101, and a bridge crossing the Merrimack.

## **ANNOUNCEMENTS**

### **RESOLUTION**

Senator Clegg moved that the Senate recess to the Call of the Chair for the sole purpose of sending and receiving messages, processing enrolled bill reports and amendments.

**Adopted.**

**In recess to the Call of the Chair.**

### HOUSE MESSAGE

The House of Representatives concurs with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

**HB 203-FN**, establishing a commission on the use of radio frequency technology.

**HB 385**, establishing a commission to study certain issues related to health and human services.

**HB 592**, relative to minimum support orders.

**HB 627-FN**, relative to extended jurisdiction over certain 17 year old offenders.

**HB 645-FN**, relative to reduced cigarette ignition propensity.

**HB 690-FN**, relative to aid to the needy blind to undue hardship for public assistance, and to eligibility for and recovery of public assistance.

**HB 1113**, adding a definition of "public academy" to the definition of "high school"; relative to the membership of the state advisory committee on the education of children/students with disabilities; and amending the definition of "limited English proficient pupil."

**HB 1116**, relative to service of the notice to quit and writ of summons in landlord tenant actions.

**HB 1167-FN-A**, relative to the department of transportation pilot program for effective investment of state highway mitigation funds and making an appropriation to the land and community heritage investment program.

**HB 1192**, relative to property and casualty insurance.

**HB 1206**, relative to the assessing standards board, and the approval of appraisal contracts.

**HB 1214**, establishing a committee to study certain educational and social service issues.

**HB 1223-FN**, relative to the use of real estate brokers by the department of transportation.

**HB 1241-FN-L**, extending the kindergarten construction aid program.

**HB 1265**, extending the final report date of the commission to study the relationship between public health and the environment.

**HB 1274**, relative to certain disclosures to the department of health and human services.

**HB 1285**, relative to adoption.

**HB 1295**, relative to notice brake shift interlock and key positions by automobile dealers to consumers.

**HB 1305-L**, authorizing municipalities to adopt regulations relative to businesses obtaining municipal permits.

**HB 1335**, relative to the authority of law enforcement officers during a state of emergency and prohibiting the taking of arms and ammunition in a declared state of emergency.

**HB 1337**, establishing the amusement ride safety advisory board.

**HB 1346**, requiring certain persons to keep the contents of prescriptions confidential.

- HB 1386**, relative to exceptions to the prohibition on carrying and selling knives.
- HB 1417-FN**, establishing gold star number plates and relative to special number plates for veterans.
- HB 1424**, relative to persons permitted to attend child abuse and neglect hearings.
- HB 1427**, relative to guiding principles for developmentally disabled services.
- HB 1433**, establishing a moratorium on the incineration of construction and demolition waste.
- HB 1435**, relative to the emergency plan for service animals and establishing a commission to study the evacuation and housing of animals during an emergency.
- HB 1448**, relative to the applicability of drivers' license revocations for drugs or alcohol involvement and relative to the medical/vision advisory board.
- HB 1461**, establishing a task force to study Temporary Assistance to Needy Families (TANF).
- HB 1464-FN-A-L**, relative to mosquito control, establishing a mosquito control fund, making an appropriation therefor, and relative to a public health response to arbovirus.
- HB 1470**, relative to overweight vehicle permit fees.
- HB 1567**, relative to removing names from the checklist.
- HB 1581**, relative to drivers' licenses issued to persons under the age of 21.
- HB 1583**, relative to grounds for modification of parental rights and responsibilities.
- HB 1585**, relative to enforcement of orders regarding parenting plans.
- HB 1612-FN**, relative to the use of lottery revenue as purses for horse and dog racing.
- HB 1624-FN**, relative to boat noise.
- HB 1625**, establishing penalties for guardians ad litem who fail to file reports.
- HB 1648-FN**, relative to legal residency and financial liability for children in certain residential placements.
- HB 1662-FN**, establishing the crime of peonage.
- HB 1667-FN**, establishing penalties for methamphetamine manufacturing and possession of substances with intent to manufacture methamphetamine.
- HB 1671-FN**, relative to the regulation of dentists and dental hygienists by the board of dental examiners.
- HB 1672-FN**, relative to a registry for founded cases of abuse, neglect, or exploitation of incapacitated adults, relative to certain background checks, and establishing a task force relative to central registries.
- HB 1679-FN-L**, relative to the property tax exemption for university system property.
- HB 1696-FN**, relative to the cremation of human remains.
- HB 1711-FN**, relative to the regulation of fuel gas fitters.

**HB 1735-FN**, relative to awarding the state employees' health insurance plan.

**HB 1741-FN**, relative to reporting requirements concerning infections in hospitals.

**HB 1747-FN**, establishing a New Hampshire healthy tidal waters and shellfish protection program and making an appropriation therefor.

**HB 2006**, relative to the state 10-year transportation improvement plan, the exemption of highway projects from eminent domain, improvements on the FE Everett Turnpike/I-293 and certain segments of NH 101, a bridge crossing the Merrimack, and establishing a study committee.

### HOUSE MESSAGE

The House of Representatives refuses to concur with the Senate in its amendments to the following entitled House Bills sent down from the Senate:

**HB 153-FN**, relative to the collection of debts owed to the state.

**HB 1121-L**, establishing a committee to study rulemaking and licensure issues relative to assisted living and residential care.

**HB 1204**, relative to human immunodeficiency virus education, prevention, and control.

**HB 1298**, establishing a study committee to evaluate disciplinary procedures of the board of medicine.

**HB 1410-FN-L**, relative to the cost to counties of convicted inmates awaiting sentencing in a county correctional facility.

**HB 1512**, establishing a committee to study volunteer activity related to transportation.

**HB 1656-FN-A**, establishing an electronic toll collection transponder inventory fund.

**May 11, 2006**  
**2006-2233-EBA**  
**04/09**

### Enrolled Bill Amendment to SB 221

The Committee on Enrolled Bills to which was referred SB 221

AN ACT relative to obtaining a driver's license and creating a violation for failure to pay a highway toll.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

### FOR THE COMMITTEE

#### Explanation to Enrolled Bill Amendment to SB 221

This enrolled bill amendment rennumbers an RSA section to avoid duplicate numbering with an RSA section inserted by 2006, 116 (HB 1155).

### Enrolled Bill Amendment to SB 221

Amend section 3 of the bill by replacing lines 1-3 with the following:

3 New Section; Failure to Pay a Highway Toll. Amend RSA 236 by inserting after section 31-a the following new section:

236:31-b Failure to Pay a Highway Toll. Notwithstanding the provisions of RSA 236:31, any

**Adopted.**



**May 15, 2006**  
**2006-2248-EBA**  
**04/01**

**Enrolled Bill Amendment to SB 269**

The Committee on Enrolled Bills to which was referred SB 269

AN ACT ratifying certain actions at the 1996 Seabrook annual town meeting.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to SB 269**

This enrolled bill amendment corrects the title of the bill to accurately reflect its contents.

**Enrolled Bill Amendment to SB 269**

Amend the title of the bill by replacing it with the following:

AN ACT ratifying all actions from the 1996 Seabrook annual town meeting, pertaining to the adoption of article 3, through September 12, 2006.

**Adopted.**

**May 8, 2006**  
**2006-2212-EBA**  
**03/10**

**Enrolled Bill Amendment to SB 382**

The Committee on Enrolled Bills to which was referred SB 382

AN ACT relative to the guardian ad litem board.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to SB 382**

This enrolled bill amendment makes grammatical and technical corrections.

**Enrolled Bill Amendment to SB 382**

Amend RSA 490-C:4, I(g) as inserted by section 3 of the bill by replacing line 6 with the following:

~~appropriate investigation and resolution by the appointing]~~ **to the appropriate court for**

Amend RSA 490-C:4, II(f) as inserted by section 3 of the bill by replacing line 3 with the following:

investigations, ~~[or]~~ adjudicatory hearings, **or other proceedings** held by the board.

Amend RSA 490-C:5-b, II(d) as inserted by section 6 of the bill by replacing lines 1-4 with the following:

**(d) The board, its representatives, or its agents may, without a specific court order,** disclose to any ~~[New Hampshire]~~ court ~~[with the authority to appoint a guardian]~~ **that appoints or oversees guardians** ad litem, or **any other entity or group** which possesses oversight authority over **any type of** ~~[the]~~ professional ~~[activities]~~ **activity** of ~~[individuals]~~ **persons** who may

Amend RSA 490-C:5-b, IV(d) as inserted by section 6 of the bill by replacing line 2 with the following:

***proceeding or any proceeding or other matter before the board, including but not limited to the***

Amend RSA 490-C:5-b, VI(a)(4) as inserted by section 6 of the bill by replacing line 2 with the following:

***proceeding or any proceeding or other matter before the board, including but not limited to the***

Amend RSA 490-C:5-b, IX(a)(2) as inserted by section 6 of the bill by replacing lines 2-4 with the following:

***matter for the reasons set forth in subparagraphs IV(c) through (e), unless prior permission to make such disclosure has been obtained from the board or the disclosure is allowed under paragraph II, other provisions of this chapter, or other law.***

**Adopted.**

**May 11, 2006**

**2006-2234-EBA**

**05/09**

### **Enrolled Bill Amendment to SB 405**

The Committee on Enrolled Bills to which was referred SB 405

AN ACT relative to the acceptance of certain tax-sheltered funds by the Manchester employees' contributory retirement system.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

### **FOR THE COMMITTEE**

#### **Explanation to Enrolled Bill Amendment to SB 405**

This enrolled bill amendment rennumbers a session law section to avoid duplicating the numbering inserted by 2006, 115 (SB 404).

### **Enrolled Bill Amendment to SB 405**

Amend section 1 of the bill by replacing lines 2-4 with the following: Tax Sheltered Funds for Allowable Service Purchases. Amend 1973, 218, as amended by 2002, 194 and 2006, 115, by inserting after section 30 the following new section:

218:31 Acceptance of Certain Tax Sheltered Funds.

**Adopted.**

**May 11, 2006**

**2006-2215-EBA**

**04/09**

### **Enrolled Bill Amendment to CACR 41**

The Committee on Enrolled Bills to which was referred CACR 41

RELATING TO: representative districts.

PROVIDING THAT: representative districts shall be apportioned according to specified standards.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

### **FOR THE COMMITTEE**

#### **Explanation to Enrolled Bill Amendment to CACR 41**

This enrolled bill amendment corrects the word "flotarial" to read "floterial."

**Enrolled Bill Amendment to CACR 41**

Amend paragraph I of the resolution by replacing line 7 with the following:

non-floterial representative district. When any town, ward, or unincorporated place has fewer than

Amend paragraph I of the resolution by replacing line 13 with the following:

number of inhabitants of other districts to form at-large or floterial districts conforming to

Amend paragraph IV of the resolution by replacing line 8 with the following:

non-floterial representative district. When any town, ward, or unincorporated place has fewer than

Amend paragraph IV of the resolution by replacing line 14 with the following:

number of inhabitants of other districts to form at-large or floterial districts conforming to

**Adopted.**

**May 12, 2006**

**2006-2241-EBA**

**03/10**

**Enrolled Bill Amendment to HB 716-FN**

The Committee on Enrolled Bills to which was referred HB 716-FN AN ACT relative to securities regulation.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE****Explanation to Enrolled Bill Amendment to HB 716-FN**

This enrolled bill amendment deletes a provision previously enacted in 2005, 224, combines 2 bill sections amending the same RSA provision, and makes grammatical and technical corrections.

**Enrolled Bill Amendment to HB 716-FN**

Amend RSA 421-B:2, XIII-a as inserted by section 1 of the bill by replacing line 2 with the following:  
partnership, limited liability company, association, joint stock company, trust where the interests

Amend section 7 of the bill by replacing lines 1-10 with the following:

7 Licensing. Amend RSA 421-B:6, V(c) to read as follows:

(c) Each **broker-dealer** branch office within this state shall be supervised by ~~an on-~~

Amend RSA 421-B:7, VIII(b) as inserted by section 10 of the bill by replacing line 1 with the following:

(b) Each applicant for a license under this paragraph shall make application on the

Amend RSA 421-B:17, II(a)(3)(A) as inserted by section 15 of the bill by replacing lines 1-5 with the following:

(A) "General solicitation" and "general advertisement" includes, but is not limited to any advertisement, article, notice, or other communication published in any newspaper, magazine, or similar media or broad-

cast over television or radio, and any seminar or meeting whose attendees have been invited by any general solicitation or general advertising. General solicitation and general advertisement shall not include communications and disclosure material specifically directed to

Amend RSA 421-B:17, II(r)(1)(D) as inserted by section 17 of the bill by replacing line 3 with the following:  
disclosure requirements of 17 C.F.R. section 230.502(b), the secretary of state shall require

Amend RSA 421-B:31, IV(a) as inserted by section 23 of the bill by replacing line 3 with the following:  
[or (b)], (3) a notice filing under section 18(b)(4)(D) of the Securities Act of 1933, or (4) a notice filing

Amend the bill by deleting section 29 and renumbering the original sections 30-31 to read as 29-30, respectively.

**Adopted.**

**May 17, 2006**

**2006-2297-EBA**

**08/09**

### **Enrolled Bill Amendment to HB 1458-FN**

The Committee on Enrolled Bills to which was referred HB 1458-FN AN ACT relative to the regulation of landscape architects.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

### **FOR THE COMMITTEE**

### **Explanation to Enrolled Bill Amendment to HB 1458-FN**

This enrolled bill amendment makes technical corrections.

### **Enrolled Bill Amendment to HB 1458-FN**

Amend RSA 310-A:142, IV as inserted by section 3 of the bill by replacing line 3 with the following:  
incurred in carrying out the provisions of this subdivision.

Amend RSA 310-A:144, VI as inserted by section 3 of the bill by replacing line 1 with the following:

VI. Replacement of a lost or mutilated license.

Amend RSA 310-A:154, I as inserted by section 3 of the bill by replacing line 1 with the following:

I. All licenses issued by the board shall expire on the last day of the licensee's month of birth in

Amend RSA 310-A:156, VII as inserted by section 3 of the bill by replacing lines 2-3 with the following:  
connection with any disciplinary proceeding, including investigations, stenographers, and attorneys' fees, as a condition of probation or reinstatement.

Amend RSA 310-A:160, II as inserted by section 3 of the bill by replacing lines 2-3 with the following:  
construction or alteration of landscape design associated with farms, residences, or institutional or commercial uses, where the client or reviewing governmental entity does not require the stamp of a

**Adopted.**

**May 9, 2006**  
**2006-2219-EBA**  
**08/09**

**Enrolled Bill Amendment to HB 1477**

The Committee on Enrolled Bills to which was referred HB 1477

AN ACT implementing the federal Law Enforcement Officers Safety Act of 2004.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1477**

This enrolled bill amendment makes technical corrections.

**Enrolled Bill Amendment to HB 1477**

Amend RSA 188-F:26, XVII as inserted by section 1 of the bill by replacing line 2 with the following:

Officers Safety Act of 2004, 18 U.S.C. section 926C(d)(2)(B) in accordance with RSA 541-A.

Amend RSA 188-F:32-d as inserted by section 2 of the bill by replacing line 4 with the following:

meeting the standards established in Pol 404.03 to qualify under the provisions of 18 U.S.C.

Amend RSA 188-F:32-d as inserted by section 2 of the bill by replacing line 7 with the following:

not qualified under 18 U.S.C. section 926C(d)(2)(B) to have received such certification.

**Adopted.**

**May 12, 2006**  
**2006-2235-EBA**  
**04/09**

**Enrolled Bill Amendment to HB 1526**

The Committee on Enrolled Bills to which was referred HB 1526

AN ACT relative to the composition of the medical review subcommittee of the medical review board.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1526**

This enrolled bill amendment nullifies section 3 of 2006, 61 (HB 1517-FN) and inserts a new section to incorporate changes made to RSA 329:17, V-a by this bill and by section 3 of HB 1517-FN.

**Enrolled Bill Amendment to HB 1526**

Amend the bill by replacing all after section 1 with the following:

2 Medical Review Subcommittee; Public Members. Amend RSA 329:17, V-a to read as follows:

V-a. A medical review subcommittee of ~~[7]~~ **9** members shall be nominated by the board of medicine and appointed by the governor and council. The subcommittee shall consist of one member of the board of medicine and ~~[6]~~ **8** other persons, ~~[no more than]~~ **3 of whom shall be public**

**members and** 5 of whom shall be physicians. Any public member of the subcommittee shall be a person who is not, and never was, a member of the medical profession or the spouse of any such person, and who does not have, and never has had, a material financial interest in either the provision of medical services or an activity directly related to medicine, including the representation of the board or profession for a fee at any time during the 5 years preceding appointment. ***The terms of the public members shall be staggered so that no 2 public members' terms expire in the same year.*** The subcommittee members shall be appointed for 3-year terms, and shall serve no more than 2 terms. Upon referral by the board, the subcommittee shall review disciplinary actions reported to the board under paragraphs II-V of this section, except that matters concerning a medical director involved in a current internal or external grievance pursuant to RSA 420-J shall not be reviewed until the grievance process has been completed. Following review of each case, the subcommittee shall make recommendations to the board. Funds shall be appropriated from the general fund for use by the subcommittee to investigate allegations under paragraphs I-V of this section. The board shall employ a physician as a medical review subcommittee administrator who shall serve at the pleasure of the board. The salary of the medical review subcommittee administrator shall be established by the board in accordance with duties, experience, and amount of time required for the position.

3 Nullification. Section 3 of 2006, 61 (HB 1517-FN) shall not take effect.

4 Effective Date.

I. Section 2 of this act shall take effect June 23, 2006.

II. The remainder of this act shall take effect upon its passage.

**Adopted.**

**May 9, 2006**

**2006-2216-EBA**

**06/10**

### **Enrolled Bill Amendment to HB 1546**

The Committee on Enrolled Bills to which was referred HB 1546

AN ACT relative to patient information.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

### **FOR THE COMMITTEE**

### **Explanation to Enrolled Bill Amendment to HB 1546**

This enrolled bill amendment makes a grammatical correction.

### **Enrolled Bill Amendment to HB 1546**

Amend RSA 332-I:2, I(d) as inserted by section 2 of the bill by replacing line 3 with the following:

recommended medical treatment and be involved in experimental research upon the patient's

**Adopted.**

**May 9, 2006**

**2006-2220-EBA**

**08/01**

### **Enrolled Bill Amendment to HB 1660-FN**

The Committee on Enrolled Bills to which was referred HB 1660-FN

AN ACT regulating identity theft.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1660-FN**

This enrolled bill amendment makes a grammatical correction.

**Enrolled Bill Amendment to HB 1660-FN**

Amend RSA 359-C:20, III (d) as inserted by section 1 of the bill by replacing lines 1-2 with the following:

(d) Substitute notice, if the person demonstrates that the cost of providing notice would exceed \$5,000, that the affected class of subject individuals to be notified exceeds 1,000, or the person

**Adopted.**

**May 10, 2006**  
**2006-2223-EBA**  
**04/09**

**Enrolled Bill Amendment to HB 1687**

The Committee on Enrolled Bills to which was referred HB 1687

AN ACT extending certain studies and adding a certain duty relative to pharmacy reimbursement.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1687**

This enrolled bill amendment corrects a date reference in the bill and inserts a contingency section renumbering a paragraph if 2006, HB 1763 becomes law.

**Enrolled Bill Amendment to HB 1687**

Amend section 2 of the bill by replacing line 4 with the following: until November 1, [2005] **2006**, and its members shall continue to serve until November 1, [2005] **2006**.

Amend the bill by inserting after section 7 the following and renumbering the original section 8 to read as 9:

8 Contingent Renumbering. If HB 1763 of the 2006 legislative session becomes law, then paragraph III of 2005, 73:3 as inserted by section 6 of this bill shall be renumbered as paragraph VII.

**Adopted.**

**May 11, 2006**  
**2006-2221-EBA**  
**03/01**

**Enrolled Bill Amendment to HB 1763**

The Committee on Enrolled Bills to which was referred HB 1763

AN ACT extending a committee and adding certain duties relative to pharmacy reimbursement.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

## FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to HB 1763**

This enrolled bill amendment makes grammatical corrections.

**Enrolled Bill Amendment to HB 1763**

Amend section 1 of the bill by replacing lines 3-7 with the following:

III. Examining rate changes in the price of drugs which are usually changed on a daily basis.

IV. Examining the electronic payment of pharmacy reimbursements for quicker turnaround on payments to pharmacies.

V. Examining the most favored nation issue.

VI. Examining a method to reimburse pharmacies for the copayments that Medicaid clients do

**Adopted.**

**REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

**HB 221**, relative to eligibility for absentee ballots.

**HB 459**, relative to access to criminal records and enhanced 911 system records.

**HB 718-FN-A**, relative to a state active duty death benefit for activated members of the New Hampshire national guard and making an appropriation therefor.

**HB 1157**, relative to the definition of a sending district.

**HB 1182-FN**, relative to the limited commercial lobster license fees.

**HB 1191**, making technical corrections to the chapter governing vital records.

**HB 1201**, relative to child passenger restraints.

**HB 1260**, relative to informing first-time driver's license applicants of the controlled drug laws.

**HB 1317**, relative to the control or eradication of exotic aquatic weeds and requiring a review by the department of agriculture, markets, and food, the department of environmental services, the fish and game department, and the department of resources and economic development, evaluating the current permitting process for special permits for aquatic applications of pesticides to control or eradicate exotic aquatic weeds and making recommendations to improve the process.

**HB 1351**, relative to the rulemaking process.

**HB 1357**, relative to the legislative facilities committee.

**HB 1377**, relative to certain mandatory minimum sentences.

**HB 1419-FN**, relative to mediation in divorce proceedings.

**HB 1436-L**, authorizing municipal and county biennial budgets for a 24-month period.

**HB 1444-FN**, relative to definitions under the real estate transfer tax.

**HB 1480**, amending the provisions relative to registration of criminal offenders.

**HB 1521**, relative to the membership of the juvenile parole board.



**HB 1530**, naming the road to the supreme court and the administrative office of the courts Charles Doe Drive and naming the campus of the supreme court and the administrative office of the courts Charles Doe Place.

**HB 1566**, relative to the definitions of resident for motor vehicle law purposes and domicile for voting purposes and relative to vehicle registration and driver's license requirements.

**HB 1681-FN**, establishing the unused prescription drug program.

**HB 1688**, prohibiting the use of gasoline-powered watercraft on Head's Pond in Hooksett.

**HB 1727-FN-L**, relative to transfer or discharge of patients or residents in licensed facilities.

**HB 1756**, relative to alternative regulation of small incumbent local exchange carriers.

**HB 1764**, relative to the committee to study medicaid reimbursement rates for pharmacy providers.

**SB 225-FN-A**, relative to horse and dog racing.

**SB 308-FN-A-L**, making an appropriation for school building aid.

**SB 322**, establishing the business loan enhancement program and relative to the capital asset backed guarantee program.

**SB 387**, relative to energy efficiency loans and guarantees by the business finance authority.

**SB 400-FN**, relative to highway welcome signs.

Senator D'Allesandro moved adoption.

**Adopted.**

### CONFEREE CHANGES

**SB 403**, relative to verification of identity when a person registers or attempts to vote.

**CONFEREE CHANGE:** Senator Hassan Replaced Senator Burling.

**CONFEREE CHANGE:** Senator Gatsas Replaced Senator Hassan.

**HB 1752**, requiring notice regarding the classifications of employee and independent contractor.

**CONFEREE CHANGE:** Senator Gatsas Replaced Senator Hassan.

**HB 1331**, relative to the New Hampshire Temporary Assistance to Needy Families (TANF) program.

**CONFEREE CHANGE:** Senator Clegg Replaced Senator Fuller Clark.

### REPORT OF COMMITTEE ON ENROLLED BILLS

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

**HB 115**, allowing pharmacists to establish collaborative practice agreements with medical practitioners.

**HB 203-FN**, establishing a commission on the use of radio frequency technology.

**HB 380**, relative to absentee voting.

**HB 590**, excluding stepchildren from the definition of “child” in the context of support orders.

**HB 657-FN-L**, relative to promoting community revitalization.

**HB 688-FN**, relative to the regulation of mental health practitioners and the procedures of the board of mental health.

**HB 719-FN**, recodifying the Articles 1 and 7 of the Uniform Commercial Code and relative to lobbyist name tags.

**HB 1214**, establishing a committee to study certain educational and social service issues.

**HB 1215**, relative to the winter maintenance of Diamond Pond Road in the towns of Colebrook and Stewartstown.

**HB 1330**, clarifying the laws relative to municipal enrollment in the National Flood Insurance Program and relative to adopting flood insurance rate map amendments.

**HB 1433**, establishing a moratorium on the incineration of construction and demolition waste.

**HB 1452-FN**, requiring insurance coverage for the cost of testing for bone marrow donation.

**HB 1455-FN-A**, relative to the disposal of video display devices.

**HB 1536**, relative to bonds required from persons excavating or disturbing certain highways.

**HB 1633-FN**, relative to membership, eligibility, and financing of the New Hampshire retirement system.

**HB 1657**, establishing a wildlife legacy initiative for gifts and donations for fish and wildlife conservation programs.

**HB 1715-FN**, relative to funding of the professional assistance program of dentists.

**HB 1722-FN**, relative to the New Hampshire council on developmental disabilities.

**SB 24**, relative to disposition upon death of patient accounts in nursing homes.

**SB 233**, relative to motorcycle rider education.

**SB 249**, allowing a master electrician to have 2 apprentice electricians under his or her supervision, and relative to examinations of electricians by the electricians' board.

**SB 273**, relative to reasonable accommodations for employees with disabilities.

**SB 289-FN**, relative to the brain and spinal cord advisory council.

**SB 342**, relative to the treatment of glaucoma by optometrists.

**SB 389**, establishing a committee to study programs funded by the system benefits charge.

Senator D'Allesandro moved adoption.

**Adopted.**

**Out of Recess.**

**LATE SESSION**

Senator Clegg moved that the Senate adjourn from the late session.

**Adopted.**

**Adjournment.**

*May 24, 2006*

The Senate met at 10:00 a.m.

A quorum was present.

The Father Andrew H. Mahalares, from Saint George Greek Orthodox Cathedral in Manchester, guest chaplain to the Senate, offered the prayer.

*Let us pray. O good and gracious God, we thank You for this opportunity to assemble for discussion of Your people and their work. We humbly ask O Lord, that You grant to us the wisdom to make decisions for the people that we represent but also for the good of the state of New Hampshire. We ask that Your wisdom be with us always, that all we say, think, and do be for the better good and that we keep our personal preferences in the back of our mind as we do all good things, granting us the wisdom to always think of those we serve, and the greater good of the state of New Hampshire, and also to keep us in Your care. We pray for the fruits of the Earth. We pray for peaceful seasons. We ask O Lord that as You grant to us rain for the crops, that You keep us also in Your care as we have an abundance. We ask this in the name of our gracious and benevolent Lord.*

*Amen*

Senator Martel led the Pledge of Allegiance.

**INTRODUCTION OF GUESTS****COMMITTEE OF CONFERENCE REPORTS**

**May 16, 2006**

**2006-2271-CofC**

**01/09**

Committee of Conference Report on HB 37-FN, an act relative to health insurance coverage for full-time students on medical leaves of absence.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 415:5, I(3-a)(b) as inserted by section 2 of the bill by replacing it with the following:

***(b) If the coverage for dependent children under subparagraph (3) includes coverage for dependent children who are full-time students, as defined by the appropriate educational institution, beyond the age of 18, such dependent coverage shall include coverage for a dependent's medically necessary leave of absence from school for a period not to exceed 12 months or the date on which coverage would otherwise end pursuant to the terms and conditions of the policy, whichever comes first. Any breaks in the school semester shall not disqualify the dependent child from coverage under this subparagraph. Documentation and certification of the medical necessity of a leave of absence shall be submitted***

*to the insurer by the student's attending physician and shall be considered prima facie evidence of entitlement to coverage under this subparagraph. The date of the documentation and certification of the medical necessity of a leave of absence shall be the date the insurance coverage under this subparagraph commences; and*

Amend RSA 415:18, V(b) as inserted by section 3 of the bill by replacing it with the following:

*(b) If the coverage for dependent children under subparagraph (3) includes coverage for dependent children who are full-time students, as defined by the appropriate educational institution, beyond the age of 18, such dependent coverage shall include coverage for a dependent's medically necessary leave of absence from school for a period not to exceed 12 months or the date on which coverage would otherwise end pursuant to the terms and conditions of the policy, whichever comes first. Any breaks in the school semester shall not disqualify the dependent child from coverage under this subparagraph. Documentation and certification of the medical necessity of a leave of absence shall be submitted to the insurer by the student's attending physician and shall be considered prima facie evidence of entitlement to coverage under this subparagraph. The date of the documentation and certification of the medical necessity of a leave of absence shall be the date the insurance coverage under this subparagraph commences; and*

Amend the bill by replacing section 4 with the following:

4 Effective Date. This act shall take effect upon its passage.

The signatures below attest to the authenticity of this Report on HB 37-FN, an act relative to health insurance coverage for full-time students on medical leaves of absence.

*Conferees on the Part  
of the Senate*

Sen. Flanders, Dist. 7

Sen. Barnes, Dist. 17

Sen. Gottesman, Dist. 12

*Conferees on the Part  
of the House*

Rep. Francoeur, Rock. 15

Rep. Infantine, Hills. 13

Rep. Charles Clark, Belk. 5

Rep. DeJoie, Merr. 11

**Adopted.**

**May 19, 2006**

**2006-2359-CofC**

**04/10**

Committee of Conference Report on HB 76, an act relative to distribution of state aid to charter schools.

**Recommendation:**

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 194-B:11, I as inserted by section 1 of the bill by replacing it with the following:

I. There shall be no tuition charge for any pupil attending an open enrollment or charter conversion school located in that pupil's resident district. Funding limitations in this chapter shall not be applicable to charter conversion or open enrollment schools located in a pupil's resident district. For any other charter or open enrollment school authorized

by the school district, the pupil's resident district shall pay to such school an amount equal to not less than 80 percent of that district's average cost per pupil as determined by the department of education using the most recent available data as reported by the district to the department. For any charter school authorized by the state board of education ***pursuant to RSA 194-B:3-a***, ~~[the pupil's resident district shall pay tuition beginning July 1, 2005 and every fiscal year thereafter,]~~ ***the state shall pay tuition directly to the charter school for each pupil who is a resident of this state in attendance at such charter school*** ~~[in an amount per pupil determined]~~ as follows:

(a) For the fiscal year beginning ~~[July 1, 2005, \$3,500]~~ ***July 1, 2006, \$3,598*** annual tuition.

(b) For every fiscal year thereafter, the department of education shall determine the tuition rate by adjusting for the average annual percentage rate of inflation based on the northeast region consumer price index for all urban consumers as published by the Bureau of Labor Statistics, United States Department of Labor. The average shall be based on the 4 calendar years ending 18 months before the beginning of the fiscal year for which the tuition rate is to be determined.

(c) ***The commissioner of the department of education shall calculate and distribute charter school tuition payments as set forth herein. The first payment shall be 30 percent of the per pupil amount multiplied by the number of eligible pupils present on the first day of the current school year. Such payment shall be made no later than 15 days after the department of education receives the attendance report. The December 1 payment shall be 30 percent of the per pupil amount multiplied by the membership on November 1, and the March 1 payment shall be 30 percent of the per pupil amount multiplied by the membership on February 1. To calculate the final payment, the commissioner of the department of education shall multiply the per pupil amount by the average daily membership in attendance for the full school year, and subtract the total amount of the first 3 payments made. The remaining balance shall be the final payment. Eligible charter schools shall report membership in accordance with RSA 189:1-d. In this subparagraph, "membership" shall be as defined in RSA 189:1-d, II.*** Tuition amounts shall be prorated on a per diem basis for pupils attending a school for less than a full school year. ~~[To the extent permitted by law, tuition payments shall coincide with the distribution of equitable education grants under RSA 198:42 or on such other terms as are mutually acceptable.]~~

(d) ***The source of funds for payments under this section shall be moneys from the education trust fund established in RSA 198:39.***

Amend the bill by replacing all after section 4 with the following:

5 New Paragraph; School Money; Distribution Schedule of Equitable Education Grants. Amend RSA 198:42 by inserting after paragraph III the following new paragraph:

IV. For the fiscal year beginning July 1, 2006, and every fiscal year thereafter, the amount necessary to fund charter school tuition payments under RSA 194-B:11, I is hereby appropriated to the department from the education trust fund established under RSA 198:39. The education trust fund shall be used to satisfy the state's obligation under this paragraph. The payment shall be issued regardless of the balance of funds available in the education trust fund.

6 Charter Schools; Seed Grants; Use of Federal Funds.

I. (a) A charter school approved pursuant to RSA 194-B:3-a, and which receives no funds from the school district in which the charter school is located, shall, upon application to the commissioner of the department of education (commissioner), receive a one-time grant of up to \$100,000 to be used only for seed costs related to the initial opening of the charter school including acquisition of classroom space, rent, cost of initial supplies, teacher salary and training, staffing costs, and utilities. Such funds shall not be used for tuition expenses. These grants shall be a charge against the education trust fund established in RSA 198:39.

(b) The commissioner shall disburse the grants no later than 30 days from the date of the application. The commissioner shall develop a form suitable for the requirements of this section. A total of \$400,000 in state moneys shall be available for distribution as grants. This amount shall be used exclusively as provided in this section and shall not be transferred or diverted to any other purpose.

(c) In the event the amount available under this section is insufficient to disburse at least \$100,000 to each charter school entitled to a grant, such amount shall be prorated among the charter schools entitled to receive a grant.

II. The commissioner shall apply for any federal funds available to charter schools pursuant to the No Child Left Behind Act, or any other federal funding source, and shall first expend any such funds received to ensure that a charter school entitled to a grant under this section receives a grant of at least \$100,000.

7 New Paragraph; Charter and Open Enrollment Schools; Federal Funding. Amend RSA 194-B:11 by inserting after paragraph IV the following new paragraph:

IV-a. The commissioner of the department of education shall apply for all federal funding available to charter schools under the No Child Left Behind Act, Title I of the Elementary and Secondary Education Act, or other federal source of funds. The commissioner shall expend any such funds received in a manner acceptable to the funding source.

8 Department of Education; Curriculum and Assessment. Amend PAU 06, 03, 02, 05, 01, for the 2007 fiscal year by inserting after class line 95 the following new class line:

96 Charter School Seed Grants *	400,000
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\* THESE FUNDS SHALL NOT BE TRANSFERRED OR EXPENDED FOR ANY OTHER PURPOSE AND SHALL NOT LAPSE.

9 Department of Education; Curriculum and Assessment. Amend the 2007 fiscal year totals and source of funds for PAU 06, 03, 02, 05, 01 as follows: Strike out:

	FISCAL YEAR 2007
TOTAL	2,498,373
ESTIMATED SOURCE OF FUNDS FOR	
CURRICULUM AND ASSESSMENT	
GENERAL FUND	2,498,373
TOTAL	2,498,373

Insert in place thereof:

	FISCAL YEAR 2007
TOTAL	2,898,373
ESTIMATED SOURCE OF FUNDS FOR	
CURRICULUM AND ASSESSMENT	
GENERAL FUND	2,498,373
EDUCATION REVENUE	400,000
TOTAL	2,898,373

10 Effective Date.

I. Sections 8-9 of this act shall take effect on July 1, 2006.

II. The remainder of this act shall take effect upon its passage.

The signatures below attest to the authenticity of this Report on HB 76, an act relative to distribution of state aid to charter schools.

*Conferees on the Part  
of the Senate*

Sen. Green, Dist. 6

Sen. Johnson, Dist. 2

Sen. D'Allesandro, Dist. 20

*Conferees on the Part  
of the House*

Rep. Balboni, Hills. 21

Rep. Claire Clarke, Merr. 6

Rep. Hughes, Rock. 18

Rep. Rous, Straf. 7

**2006-2359-CofC**

### AMENDED ANALYSIS

This bill:

I. Requires the state to pay education aid directly to a charter school approved by the state board of education, and requires any member of a charter school board of trustees who also serves as an employee, agent, or board member of any for-profit entity with whom the charter school contracts for goods or services to make public disclosure of such fact and to recuse oneself from any business the charter school may have with the for-profit entity.

II. Provides that the amount necessary to fund charter school tuition payments shall be from the education trust fund.

III. Provides seed grants from the education trust fund for charter schools on a first-come, first-served basis, and amends the state operating budget for the 2007 fiscal year to provide funds for such grants.

IV. Requires the commissioner of the department of education to apply for all federal funding available to charter schools under the No Child Left Behind Act, Title I of the Elementary and Secondary Education Act, or other federal source of funds, and to use such funds to supplement state grants to charter schools, in addition to other uses.

**Adopted.**

**May 16, 2006**

**2006-2277-CofC**

**03/09**

Committee of Conference Report on HB 349, an act relative to placement and removal of political advertising.

**Recommendation:**

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 Placement and Removal of Political Advertising. Amend RSA 664:17 to read as follows:

664:17 Placement and Removal of Political Advertising. No political advertising shall be placed on or affixed to any public property including highway rights-of-way or private property without the owner's consent. ~~[The earliest date on which political advertising may be placed or affixed shall be the last Friday in July prior to a state primary.]~~ All political advertising shall be removed by the candidate no later than the second Friday following the election unless the election is a primary and

the advertising concerns a candidate who is a winner in the primary. ***Signs shall not be placed on or affixed to utility poles or highway signs. Political advertising may be placed within state-owned rights-of-way as long as the advertising does not obstruct the safe flow of traffic and the advertising is placed with the consent of the owner of the land over which the right-of-way passes.*** No person shall remove, deface, or knowingly destroy any political advertising which is placed on or affixed to ***public property*** or any private property except the owner of the property, ***persons authorized by the owner of the property***, or a law enforcement officer removing improper advertising[~~provided, however, that, before a law enforcement officer removes any advertisement, he shall notify the candidate that it is improper, and allow the candidate 24 hours to remove the advertisement himself~~]. ***Political advertising placed on or affixed to any public property may be removed by state, city, or town maintenance or law enforcement personnel. Political advertising removed prior to election day by state, city, or town maintenance or law enforcement personnel shall be kept for one week at a place designated by the state, city, or town so that the candidate may retrieve the items.***

The signatures below attest to the authenticity of this Report on HB 349, an act relative to placement and removal of political advertising.

*Conferees on the Part  
of the Senate*

Sen. Roberge, Dist. 9  
Sen. Flanders, Dist. 7  
Sen. Hassan, Dist. 23

*Conferees on the Part  
of the House*

Rep. O'Brien, Hills. 4  
Rep. J. Allen, Belk. 5  
Rep. Millham, Belk. 5  
Rep. Harvey, Hills. 21

## **Adopted.**

**May 19, 2006**  
**2006-2348-CofC**  
**08/09**

Committee of Conference Report on HB 506, an act including employees of charitable organizations under the protection of the state law against discrimination.

## **Recommendation:**

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 Commission for Human Rights; Definition Change. RSA 354-A:2, VII is repealed and reenacted to read as follows:

VII. "Employer" does not include any employer with fewer than 6 persons in its employ, an exclusively social club, or a fraternal or religious association or corporation, if such club, association, or corporation is not organized for private profit, as evidenced by declarations filed with the Internal Revenue Service or for those not recognized by the Internal Revenue Service, those organizations recognized by the New Hampshire secretary of state. Entities claiming to be religious organizations, including religious educational entities, may file a good faith declaration with the human rights commission that the organization is an organization affiliated with, or its operations are in accordance with the doctrine and teaching of a recognized and organized



religion to provide evidence of their religious status. "Employer" shall include the state and all political subdivisions, boards, departments, and commissions thereof.

The signatures below attest to the authenticity of this Report on HB 506, an act including employees of charitable organizations under the protection of the state law against discrimination.

*Conferees on the Part  
of the Senate*

Sen. Bragdon, Dist. 11  
Sen. Flanders, Dist. 7  
Sen. Hassan, Dist. 23

*Conferees on the Part  
of the House*

Rep. Infantine, Hills. 13  
Rep. Balboni, Hills. 21  
Rep. Gorman, Hills. 23  
Rep. Carson, Rock. 3

**Adopted.**

**May 16, 2006**

**2006-2262-CofC**

**05/10**

Committee of Conference Report on HB 582, an act relative to the policy for records management.

**Recommendation:**

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 5 with the following:

5 Archives and Records Management; Procedures Manual. Amend RSA 5:40 to read as follows:

5:40 ~~[Rules]~~ **Procedures Manual**. The director, under the supervision of the secretary of state, shall establish a manual of uniform ~~[rules]~~ **procedures** necessary and proper to effectuate the purpose of this subdivision. Such ~~[rules]~~ **procedures** and any subsequent revisions, when approved by the governor and council, shall be binding upon all officers and employees of the state. ~~[Any rules adopted pursuant to this section shall be adopted in accordance with RSA 541-A.]~~

The signatures below attest to the authenticity of this Report on HB 582, an act relative to the policy for records management.

*Conferees on the Part  
of the Senate*

Sen. Morse, Dist. 22  
Sen. Odell, Dist. 8  
Sen. Burling, Dist. 5

*Conferees on the Part  
of the House*

Rep. Pilotte, Hills. 16  
Rep. Fitzgerald, Belk. 4  
Rep. Millham, Belk. 5  
Rep. Irwin, Hills. 3

**Adopted.**

**May 17, 2006**

**2006-2308-CofC**

**05/04**

Committee of Conference Report on HB 587, an act relative to child abuse and neglect investigations by the department of health and human services.

**Recommendation:**

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after section 1 with the following:

2 Filing Reports, Evaluations, and Other Records. Amend RSA 169-C:12-b to read as follows:

169-C:12-b Filing Reports, Evaluations, and Other Records. All reports, evaluations, and other records from the department of health and human services, counselors, and guardians ad litem in proceedings under this chapter shall be filed with the court and all other parties at least 5 *business* days prior to any hearing. ***If a report, evaluation, or other record is not filed at least 5 business days prior to the hearing, a party may request, and the court shall grant, a continuance to a date certain which shall not be more than 10 days from the date of filing.*** Once filed with the court and given to all other parties, the report, evaluation, or other record need not be refiled during the proceeding. Failure to comply with the provisions of this section shall not be grounds for dismissal of the petition.

3 New Sections; Medical Examinations of Child; Department Interviews With Child. Amend RSA 169-C by inserting after section 12-b the following new sections:

169-C:12-c Medical Examinations of Child. A parent who is the subject of an abuse or neglect petition not involving sexual abuse shall be entitled to request a medical examination of each child involved by a licensed physician of the parent's choice at the parent's expense within 72 hours of the first official notice of the complaint received by the parent. Where the department has assumed protective supervision or legal custody of the child and an examination of the child is necessary to verify or refute an allegation of injury, the department shall cooperate with the request and shall transport the child to the physician's office for examination provided that the physician's office is within a reasonable distance of the district office that is conducting the abuse or neglect investigation. The transportation of a child to a physician's office that is located within the state of New Hampshire shall be presumed to be reasonable under this section.

4 Effective Date. This act shall take effect January 1, 2007.

The signatures below attest to the authenticity of this Report on HB 587, an act relative to child abuse and neglect investigations by the department of health and human services.

*Conferees on the Part  
of the Senate*

Sen. Clegg, Dist. 14

Sen. Odell, Dist. 8

Sen. Gottesman, Dist. 12

*Conferees on the Part  
of the House*

Rep. Itse, Rock. 9

Rep. Souza, Hills. 11

Rep. Ginsburg, Hills. 20

Rep. Walz, Merr. 13

**2006-2308-CofC**

### AMENDED ANALYSIS

This bill:

I. Requires the department of health and human services to inform parents of a child suspected of being a victim of abuse and neglect of the nature of the charges and that they are not required to admit state employees to their property and are not required to allow them to interview their child without a court order to that effect.

II. Changes the filing deadlines for certain reports and records to 5 business days prior to a child abuse or neglect hearing.

III. Establishes certain requirements for medical examinations of children who are alleged to have been abused or neglected.

**Adopted.**

**May 19, 2006  
2006-2369-CofC  
01/09**

Committee of Conference Report on HB 656-FN, an act relative to medical decision making for those adults without capacity to make health care decisions for themselves and establishing procedures for Do Not Resuscitate Orders.

**Recommendation:**

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 2 with the following:

2 Written Directives for Medical Decision Making for Adults Without Capacity to Make Health Care Decisions for Themselves. RSA 137-J is repealed and reenacted to read as follows:

#### CHAPTER 137-J

##### WRITTEN DIRECTIVES FOR MEDICAL DECISION MAKING FOR ADULTS WITHOUT CAPACITY TO MAKE HEALTH CARE DECISIONS

###### 137-J:1 Purpose and Policy.

I. The state of New Hampshire recognizes that a person has a right, founded in the autonomy and sanctity of the person, to control the decisions relating to the rendering of his or her own medical care. In order that the rights of persons may be respected even after such persons lack the capacity to make health care decisions for themselves, and to encourage communication between patients and their attending physicians or ARNPs, the general court declares that the laws of this state shall recognize the right of a competent person to make a written directive:

(a) Delegating to an agent the authority to make health care decisions on the person's behalf, in the event such person is unable to make those decisions for himself or herself, either due to permanent or temporary lack of capacity to make health care decisions;

(b) Instructing his or her attending physician or ARNP to provide, withhold, or withdraw life-sustaining treatment, in the event such person is near death or is permanently unconscious.

II. All persons have a right to make health care decisions, including the right to refuse cardiopulmonary resuscitation. It is the purpose of the "Do Not Resuscitate" provisions of this chapter to ensure that the right of a person to self-determination relating to cardiopulmonary resuscitation is protected, and to give direction to emergency services personnel and other health care providers in regard to the performance of cardiopulmonary resuscitation.

###### 137-J:2 Definitions. In this chapter:

I. "Advance directive" means a directive allowing a person to give directions about future medical care or to designate another person to make medical decisions if he or she should lose the capacity to make health care decisions. The term "advance directives" shall include living wills and durable powers of attorney for health care.

II. "Advanced registered nurse practitioner" or "ARNP" means a registered nurse who is licensed in good standing in the state of New Hampshire as having specialized clinical qualifications as provided in RSA 326-B:10.

III. "Agent" means an adult to whom authority to make health care decisions is delegated under an advance directive.

IV. "Attending physician or ARNP" means the physician or advanced registered nurse practitioner, selected by or assigned to a patient, who has primary responsibility for the treatment and care of the patient. If more than one physician or advanced registered nurse practitioner shares that responsibility, any one of those physicians or advanced registered nurse practitioners may act as the attending physician or ARNP under the provisions of this chapter.

V. "Capacity to make health care decisions" means the ability to understand and appreciate generally the nature and consequences of a health care decision, including the significant benefits and harms of and reasonable alternatives to any proposed health care.

VI. "Cardiopulmonary resuscitation" means those measures used to restore or support cardiac or respiratory function in the event of a cardiac or respiratory arrest.

VII. "Do not resuscitate identification" means a standardized identification necklace, bracelet, card, or written medical order that signifies that a "Do Not Resuscitate Order" has been issued for the principal.

VIII. "Do not resuscitate order" or "DNR order" (also known as "Do not attempt resuscitation order" or "DNAR order") means an order that, in the event of an actual or imminent cardiac or respiratory arrest, chest compression and ventricular defibrillation will not be performed, the patient will not be intubated or manually ventilated, and there will be no administration of resuscitation drugs.

IX. "Durable power of attorney for health care" means a document delegating to an agent the authority to make health care decisions executed in accordance with the provisions of this chapter. It shall not mean forms routinely required by health and residential care providers for admissions and consent to treatment.

X. "Emergency services personnel" means paid or volunteer firefighters, law-enforcement officers, emergency medical technicians, paramedics or other emergency services personnel, providers, or entities acting within the usual course of their professions.

XI. "Health care decision" means informed consent, refusal to give informed consent, or withdrawal of informed consent to any type of health care, treatment, admission to a health care facility, any service or procedure to maintain, diagnose, or treat an individual's physical or mental condition except as prohibited in this chapter or otherwise by law.

XII. "Health care provider" means an individual or facility licensed, certified, or otherwise authorized or permitted by law to administer health care, for profit or otherwise, in the ordinary course of business or professional practice.

XIII. "Life-sustaining treatment" means any medical procedures or interventions which utilize mechanical or other medically administered means to sustain, restore, or supplant a vital function which, in the written judgment of the attending physician or ARNP, would serve only to artificially postpone the moment of death, and where the person is near death or is permanently unconscious. "Life-sustaining treatment" includes, but is not limited to, the following: mechanical respiration, kidney dialysis or the use of other external mechanical or technological devices. Life sustaining treatment may include drugs to maintain blood

pressure, blood transfusions, and antibiotics. "Life-sustaining treatment" shall not include the administration of medication, natural ingestion of food or fluids by eating and drinking, or the performance of any medical procedure deemed necessary to provide comfort or to alleviate pain.

XIV. "Living will" means a directive which, when duly executed, contains the express direction that no life-sustaining treatment be given when the person executing said directive has been diagnosed and certified in writing by the attending physician or ARNP to be near death or permanently unconscious, without hope of recovery from such condition and is unable to actively participate in the decision-making process.

XV. "Medically administered nutrition and hydration" means invasive procedures such as, but not limited to the following: Nasogastric tubes; gastrostomy tubes; intravenous feeding or hydration; and hyperalimentation. It shall not include the natural ingestion of food or fluids by eating and drinking.

XVI. "Near death" means an incurable condition caused by injury, disease, or illness which is such that death is imminent and the application of life-sustaining treatment would, to a reasonable degree of medical certainty, as determined by 2 physicians or a physician and an ARNP, only postpone the moment of death.

XVII. "Permanently unconscious" means a lasting condition, indefinitely without improvement, in which thought, awareness of self and environment, and other indicators of consciousness are absent as determined by an appropriate neurological assessment by a physician in consultation with the attending physician or an appropriate neurological assessment by a physician in consultation with an ARNP.

XVIII. "Physician" means a medical doctor licensed in good standing to practice in the state of New Hampshire pursuant to RSA 329.

XIX. "Principal" means a person 18 years of age or older who has executed an advance directive pursuant to the provisions of this chapter.

XX. "Qualified patient" means a patient who has executed an advance directive in accordance with this chapter and who has been certified in writing by the attending physician or ARNP to lack the capacity to make health care decisions.

XXI. "Reasonable degree of medical certainty" means a medical judgment that is made by a physician or ARNP who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved.

XXII. "Residential care provider" means a "facility" as defined in RSA 161-F:11, IV, a "nursing home" as defined in RSA 151-A:1, IV, or any individual or facility licensed, certified, or otherwise authorized or permitted by law to operate, for profit or otherwise, a residential care facility for adults, including but not limited to those operating pursuant to RSA 420-D.

XXIII. "Witness" means a competent person 18 years or older who is present when the principal signs an advance directive.

137-J:3 Freedom From Influence; Notice Required.

I. No health care provider or residential care provider, and no health care service plan, insurer issuing disability insurance, self-insured employee welfare benefit plan, or nonprofit hospital service plan shall charge a person a different rate because of the existence or non-existence of an advance directive or do not resuscitate order, or require any person to execute an advance directive or require the issuance of a do not resuscitate order as a condition of admission to a hospital, nursing home, or

residential care home, or as a condition of being insured for, or receiving, health or residential care services. Health or residential care services shall not be refused because a person is known to have executed an advance directive or have a do not resuscitate order.

II. The execution of an advance directive pursuant to this chapter shall not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be deemed to modify the terms of an existing policy of life insurance. No policy of life insurance shall be legally impaired, modified or invalidated in any manner by the withholding or withdrawal of life-sustaining treatment from an insured person notwithstanding any term of the policy to the contrary.

III. Any health care provider or residential care provider which does not recognize DNR's or living wills shall post at every place of admission, a notice which shall be a minimum size of 8 ½"x 11" stating the following in legible print: "This hospital/ facility does not honor Do Not Resuscitate (DNR) or Living Will documents."

137-J:4 Severability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect any other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

#### Advance Directives

##### 137-J:5 Scope and Duration of Agent's Authority.

I. Subject to the provisions of this chapter and any express limitations set forth by the principal in an advance directive, the agent shall have the authority to make any and all health care decisions on the principal's behalf that the principal could make.

II. An agent's authority under an advance directive shall be in effect only when the principal lacks capacity to make health care decisions, as certified in writing by the principal's attending physician or ARNP, and filed with the name of the agent in the principal's medical record. When and if the principal regains capacity to make health care decisions, such event shall be certified in writing by the principal's attending physician or ARNP, noted in the principal's medical record, the agent's authority shall terminate, and the authority to make health care decisions shall revert to the principal.

III. If the principal has no attending physician or ARNP for reasons based on the principal's religious or moral beliefs as specified in his or her advance directive, the advance directive may include a provision that a person designated by the principal in the advance directive may certify in writing, acknowledged before a notary or justice of the peace, as to the lack of decisional capacity of the principal. The person so designated by the principal shall not be the agent, or a person ineligible to be the agent.

IV. The principal's attending physician or ARNP shall make reasonable efforts to inform the principal of any proposed treatment, or of any proposal to withdraw or withhold treatment. Notwithstanding that an advance directive is in effect and irrespective of the principal's lack of capacity to make health care decisions at the time, treatment may not be given to or withheld from the principal over the principal's objection unless the principal's advance directive includes the following statement initialed by the principal, "Even if I am incapacitated and I object to treatment, treatment may be given to me against my objection."

V. Nothing in this chapter shall be construed to give an agent authority to:

- (a) Consent to voluntary admission to any state institution;
- (b) Consent to a voluntary sterilization; or
- (c) Consent to withholding life-sustaining treatment from a pregnant principal, unless, to a reasonable degree of medical certainty, as certified on the principal's medical record by the attending physician or ARNP and an obstetrician who has examined the principal, such treatment or procedures will not maintain the principal in such a way as to permit the continuing development and live birth of the fetus or will be physically harmful to the principal or prolong severe pain which cannot be alleviated by medication.

137-J:6 Requirement to Act in Accordance with Principal's Wishes and Best Interests. After consultation with the attending physician or ARNP and other health care providers, the agent shall make health care decisions in accordance with the agent's knowledge of the principal's wishes and religious or moral beliefs, as stated orally or otherwise communicated by the principal, or, if the principal's wishes are unknown, in accordance with the agent's assessment of the principal's best interests and in accordance with accepted medical practice.

137-J:7 Physician, ARNP, and Provider's Responsibilities.

I. A qualified patient's attending physician or ARNP, or a qualified patient's health care provider or residential care provider, and employees thereof, having knowledge of the qualified patient's advance directive shall be bound to follow, as applicable, the dictates of the qualified patient's living will and/or the directives of a qualified patient's designated agent to the extent they are consistent with this chapter and the advance directive, and to the extent they are within the bounds of responsible medical practice.

(a) An attending physician or ARNP, or other health care provider or residential care provider, who is requested to do so by the principal shall make the principal's advance directive or a copy of such document a part of the principal's medical record.

(b) Any person having in his or her possession a duly executed advance directive or a revocation thereof, if it becomes known to that person that the principal executing the same is in such circumstances that the terms of the advance directive might become applicable (such as when the principal becomes a "qualified patient"), shall forthwith deliver an original or copy of the same to the health care provider or residential care provider with which the principal is a patient.

(c) The principal's attending physician or ARNP, or any other physician or ARNP, who is aware of the principal's execution of an advance directive shall, without delay, take the necessary steps to provide for written verification of the principal's lack of capacity to make health care decisions (in other words, to certify that the principal is a "qualified patient"), and/or the principal's near death or permanently unconscious condition, as defined in this chapter and as appropriate to the principal's medical condition, so that the attending physician or ARNP and the principal's agent may be authorized to act pursuant to this chapter.

(d) If a physician or an ARNP, because of his or her personal beliefs or conscience, is unable to comply with the terms of the advance directive, he or she shall immediately inform the qualified patient, the qualified patient's family, or the qualified patient's agent. The qualified patient, or the qualified patient's agent or family, may then request that the case be referred to another physician or ARNP.

II. An attending physician or ARNP who, because of personal beliefs or conscience, is unable to comply with the advance directive pursuant to this chapter shall, without delay, make the necessary arrangements

to effect the transfer of a qualified patient and the appropriate medical records that document the qualified patient's lack of capacity to make health care decisions to another physician or ARNP who has been chosen by the qualified patient, by the qualified patient's agent, or by the qualified patient's family, provided, that pending the completion of the transfer, the attending physician or ARNP shall not deny health care treatment, nutrition, or hydration which denial would, within a reasonable degree of medical certainty, result in or hasten the qualified patient's death against the express will of the qualified patient, the advance directive, or the agent.

III. Medically administered nutrition and hydration and life sustaining treatment shall not be withdrawn or withheld under this chapter unless:

- (a) There is a clear expression of such intent in the directive;
- (b) The principal objects pursuant to RSA 137-J:5, IV; or
- (c) Such treatment would have the unintended consequence of hastening death or causing irreparable harm as certified by an attending physician and a physician knowledgeable about the patient's condition.

IV. When the direction of an agent or instruction under a living will requires an act or omission contrary to the moral or ethical principles or other standards of a health care provider or residential care provider of which the principal is a patient or resident, the health care provider shall allow for the transfer of the principal and the appropriate medical records to another health care provider chosen by the principal or by the agent and shall incur no liability for its refusal to carry out the terms of the direction by the agent; provided, that, pending the completion of the transfer, the health care provider or residential care provider shall not deny health care treatment, nutrition, hydration, or life sustaining treatment which denial would with a reasonable degree of medical certainty result in or hasten the principal's death against the expressed will of the principal, the principal's advance directive, or the agent; and further provided, that, the health care provider or residential care provider shall inform the agent of its decision not to participate in such an act or omission.

137-J:8 Restrictions on Who May Act as Agent. A person may not exercise the authority of agent while serving in one of the following capacities:

I. The principal's health care provider or residential care provider.

II. A nonrelative of the principal who is an employee of the principal's health care provider or residential care provider.

137-J:9 Confidentiality and Access to Protected Health Information.

I. Health care providers, residential care providers, and persons acting for such providers or under their control, shall be authorized to;

(a) Communicate to an agent any medical information about the principal, if the principal lacks the capacity to make health care decisions, necessary for the purpose of assisting the agent in making health care decisions on the principal's behalf.

(b) Provide copies of the principal's advance directives as necessary to facilitate treatment of the principal.

II. Subject to any limitations set forth in the advance directive by the principal, an agent whose authority is in effect shall be authorized, for the purpose of making health care decisions, to:

(a) Request, review, and receive any information, oral or written, regarding the principal's physical or mental health, including, but not limited to, medical and hospital records.



(b) Execute any releases or other documents which may be required in order to obtain such medical information.

(c) Consent to the disclosure of such medical information.

137-J:10 Withholding or Withdrawal of Life-Sustaining Treatment.

I. In the event a health care decision to withhold or withdraw life-sustaining treatment, including medically administered nutrition and hydration, is to be made by an agent, and the principal has not executed the "living will" of the advance directive, the following additional conditions shall apply:

(a) The principal's attending physician or ARNP shall certify in writing that the principal lacks the capacity to make health care decisions.

(b) Two physicians or a physician and an ARNP shall certify in writing that the principal is near death or is permanently unconscious.

(c) Notwithstanding the capacity of an agent to act, the agent shall make a good faith effort to explore all avenues reasonably available to discern the desires of the principal including, but not limited to, the principal's advance directive, the principal's written or spoken expressions of wishes, and the principal's known religious or moral beliefs.

II. Notwithstanding paragraph I, medically administered nutrition and hydration and life-sustaining treatment shall not be withdrawn or withheld under an advance directive unless:

(a) There is a clear expression of such intent in the directive;

(b) The principal objects pursuant to RSA 137-J:5, IV; or

(c) Such treatment would have the unintended consequence of hastening death or causing irreparable harm as certified by an attending physician and a physician knowledgeable about the patient's condition.

III. The withholding or withdrawal of life-sustaining treatment pursuant to the provisions of this chapter shall at no time be construed as a suicide or murder for any legal purpose. Nothing in this chapter shall be construed to constitute, condone, authorize, or approve suicide, assisted suicide, mercy killing, or euthanasia, or permit any affirmative or deliberate act or omission to end one's own life or to end the life of another other than either to permit the natural process of dying of a patient near death or the removal of life-sustaining treatment from a patient in a permanently unconscious condition as provided in this chapter. The withholding or withdrawal of life-sustaining treatment in accordance with the provisions of this chapter, however, shall not relieve any individual of responsibility for any criminal acts that may have caused the principal's condition.

IV. Nothing in this chapter shall be construed to condone, authorize, or approve:

(a) The consent to withhold or withdraw life-sustaining treatment from a pregnant principal, unless, to a reasonable degree of medical certainty, as certified on the principal's medical record by the attending physician or ARNP and an obstetrician who has examined the principal, such treatment or procedures will not maintain the principal in such a way as to permit the continuing development and live birth of the fetus or will be physically harmful to the principal or prolong severe pain which cannot be alleviated by medication.

(b) The withholding or withdrawing of medically administered nutrition and hydration or life-sustaining treatment from a mentally incompetent or developmentally disabled person, unless such person has a validly executed advance directive or such action is authorized by an existing guardianship or other court order, or such action is taken in accordance with the facility's standard protocol as applicable to its general patient population.

V. Nothing in this chapter shall impair or supersede any other legal right or responsibility which any person may have to effect life-sustaining treatment in any lawful manner; provided, that this paragraph shall not be construed to authorize any violation of RSA 137-J:7, II or III.

VI. Nothing in this chapter shall be construed to revoke or adversely affect the privileges or immunities of health care providers or residential care providers and others to provide treatment to persons in need thereof in an emergency, as provided for under New Hampshire law.

VII. Nothing in this chapter shall be construed to create a presumption that in the absence of an advance directive, a person wants life-sustaining treatment to be either taken or withdrawn. This chapter shall also not be construed to supplant any existing rights and responsibilities under the law of this state governing the conduct of physicians or ARNPs in consultation with patients or their families or legal guardians in the absence of an advance directive.

137-J:11 Liability for Health Care Costs. Liability for the cost of health care provided pursuant to the agent's decision shall be the same as if the health care were provided pursuant to the principal's decision.

137-J:12 Immunity.

I. No person acting as agent pursuant to an advance directive shall be subjected to criminal or civil liability for making a health care decision on behalf of the principal in good faith pursuant to the provisions of this chapter and the terms of the advance directive if such person exercised such power in a manner consistent with the requirements of this chapter and New Hampshire law.

II. No health care provider or residential care provider, or any other person acting for the provider or under the provider's control, shall be subjected to civil or criminal liability or be deemed to have engaged in unprofessional conduct for:

(a) Any act or intentional failure to act, if the act or intentional failure to act is done pursuant to the dictates of an advance directive, the directives of the principal's agent, and the provisions of this chapter, and said act or intentional failure to act is done in good faith and in keeping with reasonable medical standards pursuant to the advance directive and in accordance with this chapter; or

(b) Failure to follow the directive of an agent if the health care provider or residential care provider or other such person believes in good faith and in keeping with reasonable medical standards that such directive exceeds the scope of or conflicts with the authority of the agent under this chapter or the contents of the principal's advance directive; provided, that this subparagraph shall not be construed to authorize any violation of RSA 137-J:7, II or III.

III. Nothing in this section shall be construed to establish immunity for the failure to exercise due care in the provision of services or for actions contrary to the requirements of this chapter or other laws of the state of New Hampshire.

IV. For purposes of this section, "good faith" means honesty in fact in the conduct of the transaction concerned.

137-J:13 Use of Statutory Forms.

I. Every person wishing to execute an advance directive shall be provided with a disclosure statement substantially in the form set forth in RSA 137-J:19 prior to execution. The principal shall be required to sign a statement acknowledging that he or she has received the disclosure statement and has read and understands its contents.

II. An advance directive executed on or after the effective date of this chapter shall be substantially in the form set forth in RSA 137-J:20.

III. Medically administered nutrition and hydration shall not be withdrawn or withheld under an advance directive unless there is a clear expression of such power in the document.

137-J:14 Execution and Witnesses.

I. The advance directive shall be signed by the principal in the presence of either of the following:

(a) Two or more subscribing witnesses, neither of whom shall, at the time of execution, be the agent, the principal's spouse or heir at law, or a person entitled to any part of the estate of the principal upon death of the principal under a will, trust, or other testamentary instrument or deed in existence or by operation of law, or attending physician or ARNP, or person acting under the direction or control of the attending physician or ARNP. No more than one such witness may be the principal's health or residential care provider or such provider's employee. The witnesses shall affirm that the principal appeared to be of sound mind and free from duress at the time the advance directive was signed and that the principal affirmed that he or she was aware of the nature of the document and signed it freely and voluntarily; or

(b) A notary public or justice of the peace, who shall acknowledge the principal's signature pursuant to the provisions of RSA 456 or RSA 456-A.

II. If the principal is physically unable to sign, the advance directive may be signed by the principal's name written by some other person in the principal's presence and at the principal's express direction.

III. A principal's decision to exclude or strike references to ARNPs and the powers granted to ARNPs in his or her advance directive shall be honored.

137-J:15 Revocation.

I. An advance directive consistent with the provisions of this chapter shall be revoked:

(a) By written revocation delivered to the agent or to a health care provider or residential care provider expressing the principal's intent to revoke, signed, and dated by the principal; by oral revocation in the presence of 2 or more witnesses, none of whom shall be the principal's spouse or heir at law; or by any other act evidencing a specific intent to revoke the power, such as by burning, tearing, or obliterating the same or causing the same to be done by some other person at the principal's direction and in the principal's presence;

(b) By execution by the principal of a subsequent advance directive;

(c) By the filing of an action for divorce, legal separation, annulment or protective order, where both the agent and the principal are parties to such action, except when there is an alternate agent designated, in which case the designation of the primary agent shall be revoked and the alternate designation shall become effective. Re-execution or written re-affirmation of the advance directive following a filing of an action for divorce, legal separation, annulment or protective order shall make effective the original designation of the primary agent under the advance directive; or

(d) By a determination by a court under RSA 506:7 that the agent's authority has been revoked.

II. A principal's health or residential care provider who is informed of or provided with a revocation of an advance directive shall immediately record the revocation, and the time and date when he or she received the revocation, in the principal's medical record and notify the agent, the attending physician or ARNP, and staff responsible for the

principal's care of the revocation. An agent who becomes aware of such revocation shall inform the principal's health or residential care provider of such revocation. Revocation shall become effective upon communication to the attending physician or ARNP.

137-J:16 Documents Executed Prior to Enactment. Nothing in this chapter limits the enforceability of an advance directive or similar instrument validly executed under prior New Hampshire law.

137-J:17 Reciprocity. Nothing in this chapter limits the enforceability of an advance directive or similar instrument executed in another state or jurisdiction in compliance with the law of that state or jurisdiction. However, any exercise of power under such a foreign advance directive or similar instrument shall be restricted by and in compliance with the requirements of this chapter and the laws of the state of New Hampshire.

137-J:18 Naming of Multiple Agents. If the principal lists more than one person as the agent in a durable power of attorney for health care directive, the agents shall have authority in priority of the order in which their names are listed on the document, unless the method of joint agency is expressly included.

137-J:19 Durable Power of Attorney; Disclosure Statement. The disclosure statement which must accompany a durable power of attorney for health care shall be in substantially the following form:

**INFORMATION CONCERNING THE DURABLE POWER OF  
ATTORNEY FOR HEALTH CARE  
THIS IS AN IMPORTANT LEGAL DOCUMENT. BEFORE SIGNING  
IT, YOU SHOULD  
KNOW THESE IMPORTANT FACTS:**

Except if you say otherwise in the directive, this directive gives the person you name as your health care agent the power to make any and all health care decisions for you when you lack the capacity to make health care decisions for yourself (in other words, you no longer have the ability to understand and appreciate generally the nature and consequences of a health care decision, including the significant benefits and harms of and reasonable alternatives to any proposed health care). "Health care" means any treatment, service or procedure to maintain, diagnose or treat your physical or mental condition. Your health care agent, therefore, will have the power to make a wide range of health care decisions for you. Your health care agent may consent (in other words, give permission), refuse to consent, or withdraw consent to medical treatment, and may make decisions about withdrawing or withholding life-sustaining treatment. Your health care agent cannot consent to or direct any of the following: commitment to a state institution, sterilization, or termination of treatment if you are pregnant and if the withdrawal of that treatment is deemed likely to terminate the pregnancy, unless the treatment will be physically harmful to you or prolong severe pain which cannot be alleviated by medication.

You may state in this directive any treatment you do not want, or any treatment you want to be sure you receive. Your health care agent's power will begin when your doctor certifies that you lack the capacity to make health care decisions (in other words, that you are not able to make health care decisions). If for moral or religious reasons you do not want to be treated by a doctor or to be examined by a doctor to certify that you lack capacity, you must say so in the directive and you must name someone who can certify your lack of capacity. That person cannot be your health care agent or alternate health care agent or any per-

son who is not eligible to be your health care agent. You may attach additional pages to the document if you need more space to complete your statement.

If you want to give your health care agent power to withhold or withdraw medically administered nutrition and hydration, you must say so in your directive. Otherwise, your health care agent will not be able to direct that. Under no conditions will your health care agent be able to direct the withholding of food and drink that you are able to eat and drink normally.

Your agent shall be directed by your written instructions in this document when making decisions on your behalf, and as further guided by your medical condition or prognosis. Unless you state otherwise in the directive, your agent will have the same power to make decisions about your health care as you would have made, if those decisions by your health care agent are made consistent with state law.

It is important that you discuss this directive with your doctor or other health care providers before you sign it, to make sure that you understand the nature and range of decisions which could be made for you by your health care agent. If you do not have a health care provider, you should talk with someone else who is knowledgeable about these issues and can answer your questions. Check with your community hospital or hospice for trained staff. You do not need a lawyer's assistance to complete this directive, but if there is anything in this directive that you do not understand, you should ask a lawyer to explain it to you.

The person you choose as your health care agent should be someone you know and trust, and he or she must be at least 18 years old. If you choose your health or residential care provider (such as your doctor, advanced registered nurse practitioner, or an employee of a hospital, nursing home, home health agency, or residential care home, other than a relative), that person will have to choose between acting as your health care agent or as your health or residential care provider, because the law does not allow a person to do both at the same time.

You should consider choosing an alternate health care agent, in case your health care agent is unwilling, unable, unavailable or not eligible to act as your health care agent. Any alternate health care agent you choose will then have the same authority to make health care decisions for you.

You should tell the person you choose that you want him or her to be your health care agent. You should talk about this directive with your health care agent and your doctor or advanced registered nurse practitioner and give each one a signed copy. You should write on the directive itself the people and institutions who will have signed copies. Your health care agent will not be liable for health care decisions made in good faith on your behalf.

**EVEN AFTER YOU HAVE SIGNED THIS DIRECTIVE, YOU HAVE THE RIGHT TO MAKE HEALTH CARE DECISIONS FOR YOURSELF AS LONG AS YOU ARE ABLE TO DO SO, AND TREATMENT CANNOT BE GIVEN TO YOU OR STOPPED OVER YOUR CLEAR OBJECTION. You have the right to revoke the power given to your health care agent by telling him or her, or by telling your health care provider, orally or in writing, that you no longer want that person to be your health care agent. YOU HAVE THE RIGHT TO EXCLUDE OR STRIKE REFERENCES TO ARNP'S IN YOUR ADVANCE DIRECTIVE AND IF YOU DO SO, YOUR ADVANCE DIRECTIVE SHALL STILL BE VALID AND ENFORCEABLE.**

Once this directive is executed it cannot be changed or modified. If you want to make changes, you must make an entirely new directive. THIS POWER OF ATTORNEY WILL NOT BE VALID UNLESS IT IS SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR JUSTICE OF THE PEACE OR TWO (2) OR MORE QUALIFIED WITNESSES, WHO MUST BOTH BE PRESENT WHEN YOU SIGN AND WHO WILL ACKNOWLEDGE YOUR SIGNATURE ON THE DOCUMENT. THE FOLLOWING PERSONS MAY NOT ACT AS WITNESSES:

- The person you have designated as your health care agent;
- Your spouse or heir at law;
- Your attending physician or ARNP, or person acting under the direction or control of the attending physician or ARNP;

ONLY ONE OF THE TWO WITNESSES MAY BE YOUR HEALTH OR RESIDENTIAL CARE PROVIDER OR ONE OF YOUR PROVIDER'S EMPLOYEES.

137-J:20 Advance Directive; Durable Power of Attorney and Living Will; Form. An advance directive in its individual "Durable Power of Attorney for Healthcare" and "Living Will" components shall be in substantially the following form:

#### NEW HAMPSHIRE ADVANCE DIRECTIVE

NOTE: This form has two sections.

You may complete both sections, or only one section.

#### I. DURABLE POWER OF ATTORNEY FOR HEALTH CARE

I, \_\_\_\_\_, hereby appoint \_\_\_\_\_ of \_\_\_\_\_ (Please choose only one person. If you choose more than one agent, they will have authority in priority of the order their names are listed, unless you indicate another form of decision making.) as my agent to make any and all health care decisions for me, except to the extent I state otherwise in this directive or as prohibited by law. This durable power of attorney for health care shall take effect in the event I lack the capacity to make my own health care decisions.

In the event the person I appoint above is unable, unwilling or unavailable, or ineligible to act as my health care agent, I hereby appoint \_\_\_\_\_ of \_\_\_\_\_ as alternate agent. (Please choose only one person. If you choose more than one alternate agent, they will have authority in priority of the order their names are listed.)

#### STATEMENT OF DESIRES, SPECIAL PROVISIONS, AND LIMITATIONS REGARDING HEALTH CARE DECISIONS.

For your convenience in expressing your wishes, some general statements concerning the withholding or removal of life-sustaining treatment are set forth below. (Life-sustaining treatment is defined as procedures without which a person would die, such as but not limited to the following: mechanical respiration, kidney dialysis or the use of other external mechanical and technological devices, drugs to maintain blood pressure, blood transfusions, and antibiotics.) There is also a section which allows you to set forth specific directions for these or other matters. If you wish, you may indicate your agreement or disagreement with any of the following statements and give your agent power to act in those specific circumstances.

**A. LIFE-SUSTAINING TREATMENT.**

1. If I am near death and lack the capacity to make health care decisions, I authorize my agent to direct that:

*(Initial beside your choice of (a) or (b).)*

\_\_\_\_ (a) life-sustaining treatment not be started, or if started, be discontinued.

-or-

\_\_\_\_ (b) life-sustaining treatment continue to be given to me.

2. Whether near death or not, if I become permanently unconscious I authorize my agent to direct that:

*(Initial beside your choice of (a) or (b).)*

\_\_\_\_ (a) life-sustaining treatment not be started, or if started, be discontinued.

-or-

\_\_\_\_ (b) life-sustaining treatment continue to be given to me.

**B. MEDICALLY ADMINISTERED NUTRITION AND HYDRATION.**

1. I realize that situations could arise in which the only way to allow me to die would be to not start or to discontinue medically administered nutrition and hydration. In carrying out any instructions I have given in this document, I authorize my agent to direct that:

*(Initial beside your choice of (a) or (b).)*

\_\_\_\_ (a) medically administered nutrition and hydration not be started or, if started, be discontinued.

-or-

\_\_\_\_ (b) even if all other forms of life-sustaining treatment have been withdrawn, medically administered nutrition and hydration continue to be given to me.

*(If you fail to complete item B, your agent will not have the power to direct the withholding or withdrawal of medically administered nutrition and hydration.)*

**C. ADDITIONAL INSTRUCTIONS.**

Here you may include any specific desires or limitations you deem appropriate, such as when or what life-sustaining treatment you would want used or withheld, or instructions about refusing any specific types of treatment that are inconsistent with your religious beliefs or are unacceptable to you for any other reason. You may leave this question blank if you desire.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(attach additional pages as necessary)

I hereby acknowledge that I have been provided with a disclosure statement explaining the effect of this directive. I have read and understand the information contained in the disclosure statement.

The original of this directive will be kept at \_\_\_\_\_ and the following persons and institutions will have signed copies:

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_

Principal's Signature: \_\_\_\_\_

*[If you are physically unable to sign, this directive may be signed by someone else writing your name, in your presence and at your express direction.]*

**THIS POWER OF ATTORNEY DIRECTIVE MUST BE SIGNED BY TWO WITNESSES OR A NOTARY PUBLIC OR A JUSTICE OF THE PEACE.**

We declare that the principal appears to be of sound mind and free from duress at the time the durable power of attorney for health care is signed and that the principal affirms that he or she is aware of the nature of the directive and is signing it freely and voluntarily.

Witness: \_\_\_\_\_ Address: \_\_\_\_\_  
 Witness: \_\_\_\_\_ Address: \_\_\_\_\_

STATE OF NEW HAMPSHIRE  
 COUNTY OF \_\_\_\_\_

The foregoing durable power of attorney for health care was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ ("the Principal").

\_\_\_\_\_  
 Notary Public / Justice of the Peace  
 My commission expires:

**II. LIVING WILL**

Declaration made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.  
 I, \_\_\_\_\_, being of sound mind, willfully and voluntarily make known my desire that my dying shall not be artificially prolonged under the circumstances set forth below, do hereby declare:

If at any time I should have an incurable injury, disease, or illness and I am certified to be near death or in a permanently unconscious condition by 2 physicians or a physician and an ARNP, and 2 physicians or a physician and an ARNP have determined that my death is imminent whether or not life-sustaining treatment is utilized and where the application of life-sustaining treatment would serve only to artificially prolong the dying process, or that I will remain in a permanently unconscious condition, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication, the natural ingestion of food or fluids by eating and drinking, or the performance of any medical procedure deemed necessary to provide me with comfort care. I realize that situations could arise in which the only way to allow me to die would be to discontinue medically administered nutrition and hydration.

In carrying out any instruction I have given under this section, I authorize that:

*(Initial beside your choice of (a) or (b).)*

\_\_\_\_ (a) medically administered nutrition and hydration not be started or, if started, be discontinued,  
 -or-

\_\_\_\_ (b) even if all other forms of life-sustaining treatment have been withdrawn, medically administered nutrition and hydration continue to be given to me.

In the absence of my ability to give directions regarding the use of such life-sustaining treatment, it is my intention that this declaration shall be honored by my family and health care providers as the final expression of my right to refuse medical or surgical treatment and accept the consequences of such refusal.



I understand the full import of this declaration, and I am emotionally and mentally competent to make this declaration.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_.

Principal's Signature: \_\_\_\_\_

*[If you are physically unable to sign, this directive may be signed by someone else writing your name, in your presence and at your express direction.]*

**THIS LIVING WILL DIRECTIVE MUST BE SIGNED BY TWO WITNESSES OR A NOTARY PUBLIC OR A JUSTICE OF THE PEACE.**

We declare that the principal appears to be of sound mind and free from duress at the time the living will is signed and that the principal affirms that he or she is aware of the nature of the directive and is signing it freely and voluntarily.

Witness: \_\_\_\_\_ Address: \_\_\_\_\_

Witness: \_\_\_\_\_ Address: \_\_\_\_\_

**STATE OF NEW HAMPSHIRE**

**COUNTY OF \_\_\_\_\_**

The foregoing living will was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ (the "Principal").

\_\_\_\_\_  
Notary Public / Justice of the Peace

My commission expires:

**137-J:21 Effect of Appointment of Guardian; Inconsistency.**

I. On motion filed in connection with a petition for appointment of a guardian or on petition of a guardian if one has been appointed, the probate court shall consider whether the authority of an agent designated pursuant to an advance directive should be suspended or revoked. In making its determination, the probate court shall take into consideration the preferences of the principal as expressed in the advance directive. No such consideration shall change the procedures or burden of proof involved in the guardianship process as otherwise provided by law or procedures. In such consideration, the advance directive and agent appointed shall be presumed to be in the best interest of the principal and valid, absent clear and convincing evidence to the contrary.

II. To the extent that a durable power of attorney for health care, or such component of an advance directive as set forth in RSA 137-J:20, conflicts with a terminal care document or living will, or such component of an advance directive as set forth in RSA 137-J:20, the durable power of attorney for health care shall control.

**137-J:22 Civil Action.**

I. The principal or any person who is a near relative of the principal, or who is a responsible adult who is directly interested in the principal by personal knowledge and acquaintance, including, but not limited to a guardian, social worker, physician, or clergy, may file an action in the probate court of the county where the principal is located at the time:

(a) Requesting that the authority granted to an agent by an advance directive be revoked on the grounds that the principal was not of sound mind or was under duress, fraud, or undue influence when the advance directive was executed, and shall have all the rights and remedies provided by RSA 506:7 which shall apply to directives executed under this chapter and persons acting pursuant to this chapter.

(b) Challenging the right of any agent who is acting or who proposes to act as such pursuant to this chapter and naming another person, who agrees to so act, to be appointed guardian over the person of the principal for the sole purpose of making health care decisions, as provided for in RSA 464-A.

II. A copy of any such action shall be given in hand to the principal's attending physician or ARNP and, as applicable, to the principal's health care provider or residential care provider. To the extent they are not irreversibly implemented, health care decisions made by a challenged agent shall not thereafter be implemented without an order of the probate court or a withdrawal or dismissal of the court action; provided, that this paragraph shall not be construed to authorize any violation of RSA 137-J:7, II or III.

III. The probate court in which such a petition is filed shall hold a hearing as expeditiously as possible.

137-J:23 Penalty. A person who knowingly and falsely makes, alters, forges, or counterfeits, or knowingly and falsely causes to be made, altered, forged, or counterfeited, or procures, aids or counsels the making, altering, forging, or counterfeiting, of an advance directive or revocation of same with the intent to injure or defraud a person shall be guilty of a class B felony, notwithstanding any provisions in title LXII.

#### Do Not Resuscitate

137-J:24 Applicability. The provisions of this subdivision apply to all persons regardless of whether or not they have completed an advance directive.

137-J:25 Presumed Consent to Cardiopulmonary Resuscitation; Health Care Providers and Residential Care Providers Not Required to Expand to Provide Cardiopulmonary Resuscitation.

I. Every person shall be presumed to consent to the administration of cardiopulmonary resuscitation in the event of cardiac or respiratory arrest, unless one or more of the following conditions, of which the health care provider or residential care provider has actual knowledge, apply:

(a) A do not resuscitate order in accordance with the provisions of this chapter has been issued for that person;

(b) A completed advance directive for that person is in effect, pursuant to the provisions of this chapter, in which the person indicated that he or she does not wish to receive cardiopulmonary resuscitation, or his or her agent has determined that the person would not wish to receive cardiopulmonary resuscitation;

(c) A person who lacks capacity to make health care decisions is near death and admitted to a health care facility, and the person's agent is not available and the facility has made diligent efforts to contact the agent without success, or the person's agent is not legally capable of making health care decisions for the person, and the attending physician or ARNP and a physician knowledgeable about the patient's condition, have determined that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards and would cause unnecessary harm to the person, and the attending physician or ARNP has completed a do not resuscitate order; or

(d) A person is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof.

II. Nothing in this section shall be construed to revoke any statute, regulation, or law otherwise requiring or exempting a health care provider or residential care provider from instituting or maintaining the ability to provide cardiopulmonary resuscitation or expanding its existing equipment, facilities, or personnel to provide cardiopulmonary resuscitation.

137-J:26 Issuance of a Do Not Resuscitate Order; Order to be Written by the Attending Physician or ARNP.

I. An attending physician or ARNP may issue a do not resuscitate order for a person if the person, or the person's agent, has consented to the order. A do not resuscitate order shall be issued in writing in the form as described in this section for a person not present or residing in a health care facility. For persons present in health care facilities, a do not resuscitate order shall be issued in accordance with the policies and procedures of the health care facility and in accordance with the provisions of this chapter.

II. A person may request that his or her attending physician or ARNP issue a do not resuscitate order for the person.

III. An agent may consent to a do not resuscitate order for a person who lacks the capacity to make health care decisions if the advance directive signed by the principal grants such authority. A do not resuscitate order written by the attending physician or ARNP for such a person with the consent of the agent is valid and shall be respected by health care providers and residential care providers.

IV. If an agent is not reasonably available and the facility has made diligent efforts to contact the agent without success, or the agent is not legally capable of making a decision regarding a do not resuscitate order, an attending physician or ARNP may issue a do not resuscitate order for a person who lacks capacity to make health care decisions, who is near death, and who is admitted to a health care facility if a second physician who has personally examined the person concurs in the opinion of the attending physician or ARNP that the provision of cardiopulmonary resuscitation would be contrary to accepted medical standards and would cause unnecessary harm to the person.

V. For persons not present or residing in a health care facility, the do not resuscitate order shall be noted on a medical orders form or in substantially the following form on a card suitable for carrying on the person:

#### Do Not Resuscitate Order

As attending physician or ARNP of \_\_\_\_\_ and as a licensed physician or advanced registered nurse practitioner, I order that this person **SHALL NOT BE RESUSCITATED** in the event of cardiac or respiratory arrest.

This order has been discussed with \_\_\_\_\_ (or, if applicable, with his/her agent,) \_\_\_\_\_, who has given consent as evidenced by his/her signature below.

Attending physician or ARNP Name \_\_\_\_\_

Attending physician or ARNP Signature \_\_\_\_\_

Address \_\_\_\_\_

Person Signature \_\_\_\_\_

Address \_\_\_\_\_

Agent Signature (*if applicable*) \_\_\_\_\_

Address \_\_\_\_\_

VI. For persons residing in a health care facility, the do not resuscitate order shall be reflected in at least one of the following forms:

(a) Forms required by the policies and procedures of the health care facility in compliance with this chapter;

(b) The do not resuscitate card as set forth in paragraph V; or

(c) The medical orders form in compliance with this chapter.

137-J:27 Compliance With a Do Not Resuscitate Order.

I. Health care providers and residential care providers shall comply with the do not resuscitate order when presented with one of the following:

(a) A do not resuscitate order completed by the attending physician or ARNP on a form as specified in RSA 137-J:26;

(b) A do not resuscitate order for a person present or residing in a health care facility issued in accordance with the health care facility's policies and procedures in compliance with the chapter; or

(c) A medical orders form on which the attending physician or ARNP has documented a do not resuscitate order in compliance with this chapter.

(d) Do not resuscitate identification as set forth in RSA 137-J:33.

II. Pursuant to this chapter, health care providers shall respect do not resuscitate orders for persons in health care facilities, ambulances, homes, and communities within this state.

137-J:28 Protection of Persons Carrying Out in Good Faith a Do Not Resuscitate Order; Notification of Agent by Attending Physician or ARNP Refusing to Comply With Do Not Resuscitate Order.

I. No health care provider or residential care provider, or any other person acting for the provider or under the provider's control, shall be subjected to criminal or civil liability, or be deemed to have engaged in unprofessional conduct, for carrying out in good faith a do not resuscitate order authorized by this chapter on behalf of a person as instructed by the person, or the person's agent, or for those actions taken in compliance with the standards and procedures set forth in this chapter.

II. No health care provider or residential care provider, or any other person acting for the provider or under the provider's control, or other individual who witnesses a cardiac or respiratory arrest shall be subjected to criminal or civil liability for providing cardiopulmonary resuscitation to a person for whom a do not resuscitate order has been issued; provided, that such provider or individual:

(a) Reasonably and in good faith is unaware of the issuance of a do not resuscitate order; or

(b) Reasonably and in good faith believed that consent to the do not resuscitate order has been revoked or canceled.

III.(a) Any attending physician or ARNP who, because of personal beliefs or conscience, refuses to issue a do not resuscitate order at a person's request or to comply with a do not resuscitate order issued pursuant to this chapter shall take reasonable steps to advise promptly the person or agent of the person that such attending physician or ARNP is unwilling to effectuate the order. The attending physician or ARNP shall thereafter at the election of the person or agent permit the person or agent to obtain another attending physician or ARNP.

(b) If a physician or ARNP, because of his or her personal beliefs or conscience, is unable to comply with the terms of a do not resuscitate order, he or she shall immediately inform the person, the person's agent, or the person's family. The person, the person's agent, or the person's family may then request that the case be referred to another physician or ARNP, as set forth in RSA 137-J:7, II and III.

**137-J:29 Revocation of Do Not Resuscitate Order.**

I. At any time a person in a health care facility may revoke his or her previous request for or consent to a do not resuscitate order by making either a written, oral, or other act of communication to the attending physician or ARNP or other professional staff of the health care facility.

II. At any time a person residing at home may revoke his or her do not resuscitate order by destroying such order and removing do not resuscitate identification on his or her person. The person is responsible for notifying his or her attending physician or ARNP of the revocation.

III. At any time an agent may revoke his or her consent to a do not resuscitate order for a person who lacks capacity to make health care decisions who is admitted to a health care facility by notifying the attending physician or ARNP or other professional staff of the health care facility of the revocation of consent in writing, or by orally notifying the attending physician or ARNP in the presence of a witness 18 years of age or older.

IV. At any time an agent may revoke his or her consent for a person who lacks capacity to make health care decisions who is residing at home by destroying such order and removing do not resuscitate identification from the person. The agent is responsible for notifying the person's attending physician or ARNP of the revocation.

V. The attending physician or ARNP who is informed of or provided with a revocation of consent pursuant to this section shall immediately cancel the do not resuscitate order if the person is in a health care facility and notify the professional staff of the health care facility responsible for the person's care of the revocation and cancellation. Any professional staff of the health care facility who is informed of or provided with a revocation of consent pursuant to this section shall immediately notify the attending physician or ARNP of such revocation.

VI. Only a physician or advanced registered nurse practitioner may cancel the issuance of a do not resuscitate order.

**137-J:30 Not Suicide or Murder.** The withholding of cardiopulmonary resuscitation from a person in accordance with the provisions of this chapter shall not, for any purpose, constitute suicide or murder. The withholding of cardiopulmonary resuscitation from a person in accordance with the provisions of this chapter, however, shall not relieve any individual of responsibility for any criminal acts that may have caused the person's condition. Nothing in this chapter shall be construed to legalize, condone, authorize, or approve mercy killing or assisted suicide.

**137-J:31 Interinstitutional Transfers.** If a person with a do not resuscitate order is transferred from one health care facility to another health care facility, the health care facility initiating the transfer shall communicate the existence of a do not resuscitate order to the receiving facility prior to the transfer. The written do not resuscitate order, the do not resuscitate card as described in RSA 137-J:26, or the medical orders form shall accompany the person to the health care facility receiving the person and shall remain effective until a physician at the receiving facility issues admission orders. The do not resuscitate card or the medical orders form shall be kept as the first page in the person's transfer records.

**137-J:32 Preservation of Existing Rights.**

I. Nothing in this chapter shall impair or supersede any legal right or legal responsibility which any person may have to effect the withholding of cardiopulmonary resuscitation in any lawful manner. In such respect, the provisions of this chapter are cumulative; provided, that this paragraph shall not be construed to authorize any violation of RSA 137-J:7, II or III.

II. Nothing in this chapter shall be construed to preclude a court of competent jurisdiction from approving the issuance of a do not resuscitate order under circumstances other than those under which such an order may be issued pursuant to the provisions of this chapter.

137-J:33 Do Not Resuscitate Identification. Do not resuscitate identification as set forth in this chapter may consist of either a medical condition bracelet or necklace with the inscription of the person's name, date of birth in numerical form and "NH Do Not Resuscitate" or "NH DNR" on it. Such identification shall be issued only upon presentation of a properly executed do not resuscitate order form as set forth in RSA 137-J:26, a medical orders form in which a physician or advanced registered nurse practitioner has documented a do not resuscitate order, or a do not resuscitate order properly executed in accordance with a health care facility's written policy and procedure.

The signatures below attest to the authenticity of this Report on HB 656-FN, an act relative to medical decision making for those adults without capacity to make health care decisions for themselves and establishing procedures for Do Not Resuscitate Orders.

*Conferees on the Part  
of the Senate*

Sen. Clegg, Dist. 14  
Sen. Odell, Dist. 8  
Sen. Foster, Dist. 13

*Conferees on the Part  
of the House*

Rep. Dokmo, Hills. 6  
Rep. Hunt, Ches. 7  
Rep. Millham, Belk. 5  
Rep. Sokol, Graf. 9

SENATOR FOSTER: Mr. President, I just wanted to say some brief words about this legislation. The Judiciary Committee spent a lot of time on a lot of bills. I don't know how many we had, the Senate President probably knows, fifty, fifty-five or whatever. But I think we probably spent as much time, and probably more time, on this piece of legislation than about any other piece of legislation that came to our committee. We had a very lengthy hearing, we had two very long executive sessions, and then, even in the Committee of Conference, that was a very long, protracted discussion. There was a lot of give and take on both sides between the House and the Senate, but I think what came out is a very good piece of legislation. To me, this subject matter is about individual liberty and personal choice. That's really what this bill is about. What it does, it allows people to prepare advanced directives so that their decisions and personal choices about their healthcare near the end of their lives can be taken into consideration and dealt with in the ways they wish. It does so in a variety of ways. For example, no longer is a notary public required. You can have two witnesses. Why is that important? Because, in the middle of the night, if you're in a hospital, how are you going to find a notary public to express your choices and your wishes? This allows people to put down their ideas in writing in a way they want, and why is that important? That's important if we can get people to go ahead and do that so that we don't have unfold here in New Hampshire, what unfolded in Florida about a year ago, that we're all familiar with, where somebody's wishes weren't known. The family had disagreements, and all of a sudden the courts interact, and that I don't think was something that any of us enjoyed watching, and if you fill out these documents, that's very, very unlikely to happen. This bill obviously has, mixed in with it, matters of faith and things and deep-seated beliefs that people have, and I respect that and I respect that some may feel differently about this piece of legislation, but what I want to make clear about is, there's been some mischaracterizations of the legislation

in various writings that we've seen come out in the last few days. There's a suggestion in a piece that somehow, a nurse by herself, not involving any medical doctors can go ahead and withdraw nutrition or hydration, or can make a decision to write a DNR order, a do not resuscitate order. That isn't true. Look at the bill, the definitions are clear, you've got to involve a doctor, an ARNP or two physicians to make those kinds of decisions, and physicians that are familiar with the patient's current condition. In fact, the legislation is written so that the individual, if they don't feel comfortable about a nurse being involved at all, can strike that out of their advanced directive. One of the give and takes that was done in the Committee of Conference was that the instructions that people have to be given are told that, and known that, and it's in bold-face print, if you look at your Committee of Conference report. So there's some mischaracterizations out there about this piece of legislation. It's been worked on over a long time. Physicians will be involved in these decisions, and people's wishes, and that's the important part, will be carried out. So I would urge a vote in favor of the Committee of Conference report. Thank you, Mr. President.

### **Adopted.**

Senators Barnes and Martel are in opposition to the adoption of the Committee of Conference Report on HB 656-FN.

**May 17, 2006**  
**2006-2299-CofC**  
**01/09**

Committee of Conference Report on HB 678-FN, an act relative to the insurance premium tax.

### **Recommendation:**

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

The signatures below attest to the authenticity of this Report on HB 678-FN, an act relative to the insurance premium tax.

*Conferees on the Part  
of the Senate*

Sen. Gatsas, Dist. 16

Sen. Clegg, Dist. 14

Sen. D'Allesandro, Dist. 20

*Conferees on the Part  
of the House*

Rep. S. Francoeur, Rock. 15

Rep. Reardon, Merr. 11

Rep. Major, Rock. 8

Rep. R. Wheeler, Hills. 7

### **Adopted.**

**May 17, 2006**  
**2006-2310-CofC**  
**08/09**

Committee of Conference Report on HB 1126, an act relative to licenses for first mortgage bankers, brokers, pawnbrokers, and money lenders.

### **Recommendation:**

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by inserting after section 37 the following and renumbering the original section 38 to read as 39:

38 Effective Date for Licenses Issued Prior to January 1, 2007. All licenses issued prior to January 1, 2007, pursuant to RSA 399-G, shall remain in effect until December 31, 2007.

The signatures below attest to the authenticity of this Report on HB 1126, an act relative to licenses for first mortgage bankers, brokers, pawnbrokers, and money lenders.

*Conferees on the Part  
of the Senate*

Sen. Flanders, Dist. 7

Sen. Gottesman, Dist. 12

Sen. Gallus, Dist. 1

*Conferees on the Part  
of the House*

Rep. Francoeur, Hills. 26

Rep. Charles Clark, Belk. 5

Rep. Stepanek, Hills. 6

Rep. Reardon, Merr. 11

**Adopted.**

**May 19, 2006**

**2006-2363-CofC**

**06/09**

Committee of Conference Report on HB 1146, an act establishing a committee to study renewable portfolio standards.

**Recommendation:**

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Commission Established. There is established a state energy policy commission.

2 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) Two members of the senate, appointed by the president of the senate.

(b) Four members of the house of representatives, appointed by the speaker of the house of representatives.

(c) Two members appointed by the governor.

(d) The director of the office of energy and planning, or designee.

(e) A member of the public utilities commission, appointed by the commission.

(f) The consumer advocate, or designee.

(g) The commissioner of environmental services, or designee.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

3 Duties. The commission shall study:

I. The adequacy of electricity supplies to meet demand including, but not limited to, consideration of the following issues:

(a) Diversity of fuel supplies and availability.

(b) Reliability of service.

(c) Price to end-use customers.

(d) Divestiture of PSNH generation assets.

(e) Structure, effectiveness, and competitiveness of wholesale and retail markets.

(f) Renewable portfolio standards.



(g) Federal Energy Regulatory Commission (FERC) and Independent System Operator (ISO) initiatives to promote increased capacity within the region, such as the forward capacity market initiative.

(h) Protection of public health and the environment.

II. Energy efficiency opportunities and programs, in all forms of energy usage.

III. Promoting renewable energy, both for electrical production and as a heat and transportation fuel source.

IV. The adequacy of natural gas supplies and fuel diversity within the state and region.

V. The regulatory process for siting commercial wind energy facilities in the state and the economic, environmental, visual and ratepayer effects associated with such facilities.

4 Chairperson. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting shall be held within 45 days of the effective date of this section.

5 Report. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library in the form of an interim report on or before December 1, 2006 and a final report on or before December 1, 2007.

6 Effective Date. This act shall take effect upon its passage.

The signatures below attest to the authenticity of this Report on HB 1146, an act establishing a committee to study renewable portfolio standards.

*Conferees on the Part  
of the Senate*

Sen. Odell, Dist. 8

Sen. Green, Dist. 6

Sen. Fuller Clark, Dist. 24

*Conferees on the Part  
of the House*

Rep. Ross, Hills. 3

Rep. Ober, Hills. 27

Rep. O'Connell, Hills. 6

Rep. Cali-Pitts, Rock. 16

**2006-2363-CofC**

### AMENDED ANALYSIS

This bill establishes a state energy policy commission.

**Adopted.**

**May 19, 2006**

**2006-2350-CofC**

**06/01**

Committee of Conference Report on HB 1194, an act relative to job protection for firefighters, rescue workers, and emergency medical personnel.

**Recommendation:**

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after section 1 with the following:

2 Accident and Health Insurance; Minimum Standards for Claim Review. Amend RSA 415-A:4-a, I(c) to read as follows:

(c) The notification of a claim denial shall be communicated in writing or by electronic means and shall include:

(1) The specific reason or reasons for the determination and shall refer to the specific provision of the policy or plan on which the determination is based;

(2) A statement of the claimant's or the representative of the claimant's right to access the internal grievance process and the process for obtaining external review. ~~[The notification shall also include a written explanation of any claim denial and the relevant clinical rationale used to make the claim denial.];~~

(3) If the claim denial is based upon a determination that the claim is experimental or investigational or not medically necessary or appropriate, ~~the licensee shall include with the notification];~~

(A) The name and credentials of the carrier or other licensed entity, the medical director, including board status and the state or states where the person is currently licensed. If the person making the claim denial is not the medical director but a designee, then the credentials, board status, and state or states of current license shall also be provided for that person. ~~Nothing in this section shall be construed to require a carrier or other licensed entity to provide proprietary information protected by third party contracts]; and~~

***(B) An explanation of the clinical rationale for the determination. This explanation shall recite the terms of the plan or the policy or of any clinical review criteria or any internal rule, guideline, protocol, or other similar provision that was relied upon in making the claim denial and how these provisions apply to the claimant's specific medical circumstances;***

~~[(9)] (4) If an internal rule, guideline, protocol, or other similar provision was relied upon in making the benefit determination, [a reference to the specific rule, guideline, protocol, or other similar provision; and] a statement that such [a] rule, guideline, protocol, or other similar provision was relied upon in making the claim denial [and that a copy of such rule, guideline, protocol, or other provision will be provided free of charge to the claimant or claimant's representative upon request];~~

~~[(4) If the claim denial is based on a medical necessity or experimental treatment or other similar exclusion or limit, an explanation of the scientific or clinical judgment for the determination, applying the terms of the plan or the policy to the claimant's medical circumstances.];~~

(5) If clinical review criteria ~~[was]~~ ***were*** relied upon in making the benefit determination, ~~[a reference to the specific clinical review criteria], a statement that such clinical review criteria [was]~~ ***were*** relied upon in making the claim denial. ~~[and a copy of the clinical review criteria shall be provided free of charge to the claimant or the claimant's representative, upon request. If a copy of the clinical review criteria is requested,]~~ ***The recitation of the terms of the clinical review criteria required under RSA 415-A:4-a(c)(3)(B) shall be accompanied by the following notice: "The [materials] clinical review criteria provided to you are [criteria] used by this plan to authorize, modify, or deny care for persons with similar illnesses or conditions. Specific care and treatment may vary depending on individual need and the benefits covered under your contract;" [and]***

(6) A description of the plan's grievance procedures and the time limits applicable to such procedures. In the case of a denial of a benefit concerning a claim involving urgent care or in the case of a denial of a claim related to continuation of an ongoing course of treatment for a person who has received emergency services, but who has not been discharged from a facility, a description of the expedited review applicable

to such a claim shall be included in the determination. For all other claim benefit determinations, a description of the grievance process shall be specifically described in the determination.

3 Accident and Health Insurance; Appeal Procedure. Amend RSA 415-A:4-b, V(a) to read as follows:

(a) The carrier or other licensed entity shall provide a claimant with a written determination of the appeal that shall include:

(1) The specific reason or reasons for the determination, including reference to the specific provision[, rule, protocol, or guideline] **of the policy or plan** on which the determination is based;

(2) ~~A statement that the rule, protocol, or guideline governing the appeal will be provided without charge to the claimant upon request;~~ **If the determination is based upon a finding that the claim is experimental or investigational or not medically necessary or appropriate:**

**(A) The name and credentials of the person reviewing the grievance, including board status and the state or states where the person is currently licensed; and**

**(B) An explanation of the clinical rationale for the determination. This explanation shall recite the terms of the plan or the policy or of any clinical review criteria or any internal rule, guideline, protocol, or other similar provision that was relied upon in making the claim denial and how these provisions apply to the claimant's specific medical circumstance;**

(3) A statement describing all other dispute resolution options available to the claimant, including, but not limited to other options for internal review and options for external review, and options for bringing a legal action;

(4) A statement that the claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claimant's claim for benefits;

(5) If an internal rule, guideline, protocol, or other similar ~~[criterion]~~ **provision** was relied upon in making the claim denial, ~~[either the specific rule, guideline, protocol, or other similar criterion; or]~~ a statement that such rule, guideline, protocol, or other similar ~~[criterion]~~ **provision** was relied upon in making the claim denial[, and that a copy of the rule, guideline, protocol, or other similar criterion will be provided free of charge to the claimant upon request];

(6) ~~[If the claim denial is based on a medical necessity or experimental treatment or similar exclusion or limit, either an explanation of the scientific or clinical judgment for the denial, applying the terms of the plan to the claimant's medical circumstances, or a statement that such explanation will be provided free of charge upon request;]~~

(7) The following statement: "You and your plan may have other voluntary alternative dispute resolution options, such as mediation. One way to find out what may be available is to contact your local U.S. Department of Labor Office and your state insurance regulatory agency;" and

(8) A statement describing the claimant's right to contact the insurance commissioner's office for assistance which shall include a toll-free telephone number and address of the commissioner.

4 Licensure of Medical Utilization Review Entities; Notification of Claim Denials. Amend RSA 420-E:4, V to read as follows:

V. The manner and content of notification of claim benefit determinations shall be as follows:

(a) The licensee shall notify the claimant or claimant's representative in writing or electronically of the claim determination.

(b) ***If the claim benefit determination is a claim denial, the notice shall include:***

(1) ~~The [notification shall state the]~~ specific reason or reasons for the determination and shall refer to the specific provision of the policy or plan on which the determination is based.

~~[(c) The notification shall include] (2) A statement of the claimant's right or the right of the claimant's representative to access the internal grievance process and the process for obtaining external review. [The notification shall also include a written explanation of any claim denial and the relevant clinical rationale used to make the claim denial.]~~

(3) If the claim denial is based upon a determination that the claim is experimental or investigational or not medically necessary or appropriate, ~~the licensee shall include with the notification:~~

(A) The name and credentials of the carrier or other licensed entity, the medical director, including board status and the state or states where the person is currently licensed. If the person making the claim denial is not the medical director but a designee, then the credentials, board status, and state or states of current license shall also be provided for that person. ~~Nothing in this section shall be construed to require a carrier or other licensed entity to provide proprietary information protected by third-party contracts.]; and~~

***(B) An explanation of the clinical rationale for the determination. This explanation shall recite the terms of the plan or the policy or of any clinical review criteria or any internal rule, guideline, protocol, or other similar provision that was relied upon in making the claim denial and how these provisions apply to the claimant's specific medical circumstances;***

~~[(d)] (4) If an internal rule, guideline, protocol, or other similar provision was relied upon in making the benefit determination, [the determination shall reference the specific rule, guideline, protocol, or other similar provision; and shall include] a statement that such [a] rule, guideline, protocol, or other similar provision was relied upon in making the claim denial [and that a copy of such rule, guideline, protocol, or other provision will be provided free of charge to the claimant or claimant's representative upon request.];~~

~~[(e) If the claim denial is based on a medical necessity or experimental treatment or other similar exclusion or limit, the determination shall include an explanation of the scientific or clinical judgment for the determination, applying the terms of the plan or the policy to the claimant's medical circumstances.~~

~~[(f)] (5) If clinical review criteria [was] were relied upon in making the benefit determination, [a reference to the specific clinical review criteria,] a statement that such clinical review criteria [was] were relied upon in making the claim denial, [and a copy of the clinical review criteria shall be provided free of charge to the claimant or claimant's representative, upon request. Any disclosure of].~~ ***The recitation of terms of the clinical review criteria required under RSA 420-E:4, V(b)(3)(B) shall be accompanied by the following notice: "The [materials] clinical review criteria provided to you are used by this plan to authorize, modify, or deny care for persons with similar illnesses or conditions. Specific care and treatment may vary depending on individual need and the benefits covered under your contract[:];"***

~~(g)~~ (6) In the case of a denial of a benefit concerning a claim involving urgent care or in the case of a denial of a claim related to continuation of an ongoing course of treatment for a person who has received emergency services, but who has not been discharged from a facility, a description of the expedited review applicable to such a claim shall be included in the determination. For all other claim benefit determinations, a description of the grievance process shall be specifically described in the determination.

**5 Effective Date.**

I. Section 1 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

The signatures below attest to the authenticity of this Report on HB 1194, an act relative to job protection for firefighters, rescue workers, and emergency medical personnel.

*Conferees on the Part  
of the Senate*

Sen. Clegg, Dist. 14

Sen. Flanders, Dist. 7

Sen. Gottesman, Dist. 12

*Conferees on the Part  
of the House*

Rep. Infantine, Hills. 13

Rep. S. Francoeur, Rock. 15

Rep. S. Scamman, Rock. 13

Rep. Hofemann, Straf. 6

**2006-2350-CofC**

**AMENDED ANALYSIS**

This bill gives firefighters, rescue workers, and emergency medical personnel the right to take leave without pay from a place of employment when mobilized after the governor has declared a state of emergency unless certified as essential to an employer's emergency relief efforts.

This bill also clarifies the procedures for medical insurance claim denials.

**Adopted.**

**May 17, 2006**

**2006-2293-CofC**

**03/01**

Committee of Conference Report on HB 1238-FN, an act relative to centralized voter registration database information.

**Recommendation:**

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Availability of Checklist. Amend RSA 654:31 to read as follows:

654:31 Availability of Checklist.

**I. In this section:**

(a) "**Checklist information**" means the data, in any form, required to be placed on the public checklist by RSA 654:25, when that data is obtained or derived from a checklist or from the statewide centralized voter registration database maintained by the secretary of state.

*(b) "Commercial purposes" means knowingly using, selling, giving, or receiving the checklist information for the purpose of selling or offering for sale any property or service unrelated to an election or political campaign.*

*(c) "Nonpublic checklist" means the checklist bearing the names of voters who by law are entitled to have their status as a voter kept nonpublic.*

*(d) "Public checklist" means the checklist required by RSA 654:25 which contains the names of voters who by law are to be listed on a checklist available to the public in accordance with the restrictions established by this section.*

**II. In towns and cities,** the public checklist as corrected by the supervisors shall be open for the examination of any person at all times before the opening of a meeting or election at which the list is to be used. The supervisors *of the checklist* shall furnish one or more copies of the most recent *public checklist of their town or city* to any person requesting such copies. ~~[If the supervisors maintain or have access to the checklist or information from which the checklist was derived in more than one form, the person requesting copies shall be furnished copies in any of those forms according to his preference. The supervisors may charge a reasonable fee for copies that is based on the actual costs incurred when reproducing an existing checklist, except that in no event shall the fee for paper copies of any single town or ward checklist be less than \$5 nor more than \$25 per checklist. The fee charged for checklists on computer disk or tape, or in any form other than paper, shall be based solely on the additional costs incurred to provide such checklist to the individual requesting it. The fee shall be for the use of the town or city.]~~ *The supervisors of the checklist may only provide checklist information for their town or city. The supervisors of the checklist may charge a fee of up to \$25 for each copy of the public checklist for a town or ward. For public checklists containing more than 2,500 names, the supervisors of the checklist may charge a fee of up to \$25, plus \$0.50 per thousand names or portion thereof in excess of 2,500, plus any shipping costs. The supervisors of the checklist may provide public checklist information on paper, computer disk, computer tape, electronic transfer, or any other form.*

**III. Any person may view the data that would be available on the public checklist, as corrected by the supervisors of the checklist, on the statewide centralized voter registration database maintained by the secretary of state at the state records and archives center during normal business hours, but the person viewing data at the state records and archives center may not print, duplicate, transmit, or alter the data. The secretary of state may only provide copies of the most recent public checklist to a political committee of a political party as defined in RSA 664:2, V, or to a candidate who has filed for consideration for any office in any primary or general election or who has been nominated for any office in a general election. The secretary of state may not provide public checklists of less than the entire state. The secretary of state may charge a fee of up to \$25 plus \$0.50 per thousand names or portion thereof in excess of 2,500 plus shipping charges for each copy of the statewide public checklist. The secretary of state may provide public checklists as prescribed in this section on paper, computer disk, computer tape, electronic transfer, or any other form.**

*IV. Fees collected by the secretary of state under this section shall be deposited in the election fund established pursuant to RSA 5:6-d. Fees collected by a town or city under this section shall be for the use of the town or city.*

*V. No person shall use or permit the use of checklist information provided by the secretary of state for commercial purposes. Whoever knowingly violates any of the provisions of this section shall be guilty of a misdemeanor if a natural person or guilty of a felony if any other person.*

*VI. This section shall not be construed to restrict the transfer of checklist information to the state or federal courts as required by RSA 654:45 for any lawful purpose.*

2 Centralized Voter Registration Database; Jury Lists. Amend RSA 654:45, VI to read as follows:

VI. The voter database shall be private and confidential and shall not be subject to RSA 91-A and RSA 654:31. *The secretary of state is authorized to provide voter database record data to the administrative office of the courts to assist in the preparation of master jury lists pursuant to RSA 500-A and to the clerk of the District Court of the United States for the District of New Hampshire to assist in the preparation of federal court jury lists.* The voter checklist for a town or city shall be available pursuant to RSA 654:31. Any person who discloses information from the voter database in any manner not authorized by this section shall be guilty of a misdemeanor.

3 Right to Know Exemption; Public Information; Mailing Address. Amend RSA 654:31-a to read as follows:

654:31-a Right to Know Exemption. The information contained on the checklist of a town or city, specifically, the name, street address, **mailing address**, town or city, and party affiliation, if any, of registered voters, except as otherwise provided by statute, is public information subject to RSA 91-A. All other information on the voter registration form, absentee registration affidavit, and application for absentee ballot shall be treated as confidential information and the records containing this information shall be exempt from the public disclosure provisions of RSA 91-A, except as provided by statutes other than RSA 91-A. Election officials and law enforcement personnel in furtherance of their official duties may access and may disclose information from the voter registration form, absentee registration affidavits, and applications for absentee ballots, if necessary to resolve a challenge to an individual registering to vote or voting, or if necessary to investigate or prosecute election law violations or any crime. Law enforcement access and use of such records for the investigation or prosecution of crimes unrelated to election law violations shall be limited to the records of the specific individuals who are the subject of the investigation or prosecution.

4 Election Procedure; Prohibited Acts; Interference With Communications; Penalty. Amend RSA 659:40-a to read as follows:

659:40-a Interference With Communications. Any person who, on the day of any election, knowingly blocks, or solicits another person to block, the access of any candidate or committee to the candidate's or the committee's communications equipment or services with the intent of interfering with campaign activity shall be guilty of a class ~~A misdemeanor~~ **B felony**.

5 Election Procedure; Prohibited Acts; Tampering with Voting Machines; Software. Amend RSA 659:42 to read as follows:

659:42 Tampering with Voting Machines. Whoever shall tamper with or injure or attempt to injure any voting machine or device for the com-

puterized casting and counting of ballots to be used or being used in an election or whoever shall prevent or attempt to prevent the correct operation of such machine or device *or whoever shall tamper with software used in the casting or counting of ballots or design such software so as to cause incorrect tabulation of the ballots* or any unauthorized person who shall make or have in his *or her* possession a key to a voting machine to be used or being used in an election shall be guilty of a class B felony if a natural person or guilty of a felony if any other person.

6 Effective Date.

I. Sections 4-5 of this act shall take effect January 1, 2007.

II. The remainder of this act shall take effect 60 days after its passage.

The signatures below attest to the authenticity of this Report on HB 1238-FN, an act relative to centralized voter registration database information.

*Conferees on the Part  
of the Senate*

Sen. Green, Dist. 6  
Sen. Bragdon, Dist. 11  
Sen. Larsen, Dist. 15

*Conferees on the Part  
of the House*

Rep. Whalley, Belk. 5  
Rep. Biundo, Hills. 15  
Rep. Reeves, Hills. 8  
Rep. C. Chase, Hills. 2

**2006-2293-CofC**

### AMENDED ANALYSIS

This bill:

I. Modifies fees and procedures for obtaining copies of voter checklist information.

II. Prohibits the use of checklist information provided by the secretary of state for commercial purposes.

III. Permits the secretary of state to make voter database record data available to assist in the preparation of jury lists.

IV. Adds the mailing address contained on the checklist to the public information subject to RSA 91-A.

V. Increases the penalty for interference with campaign communications.

VI. Prohibits tampering with voting machine software.

**Adopted.**

**May 18, 2006**

**2006-2339-CofC**

**06/09**

Committee of Conference Report on HB 1315, an act relative to the definition and classification of dams.

Recommendation:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after section 7 with the following:

8 New Paragraph; Property Rights Acquisition Authorized. Amend RSA 482:48 by inserting after paragraph V the following new paragraph:

VI. For a consideration of \$1, the fish and game department is authorized to accept conveyance from the property owners of all water and property rights necessary to repair, maintain, and operate Big Brook Bog



dam in the town of Pittsburg, known as number 194.14, for the purpose of improving and controlling the water rights for the benefit of the state. The property rights the fish and game department is authorized to acquire for the benefit of the state shall be exempt from taxation as long as the properties are held by the state. The rights to be acquired shall include the right to maintain Big Brook Bog dam in its historic configuration as it existed prior to February 1, 2003, or any other configuration beneficial to the state. The fish and game department may transfer rights in Big Brook Bog dam under RSA 482:51 to the department for purposes of repair and maintenance.

9 Dam Management Review Committee; Study. The dam management review committee, established under RSA 482:93, shall study the potential sources of funding for the repair and maintenance of dams by the state and shall report its findings and recommendations to the governor, the president of the senate, and the speaker of the house of representatives by December 1, 2006.

#### 10 Effective Date.

I. Section 8 of this act shall take effect upon its passage.

II. The remainder of this act shall take effect 60 days after its passage.

The signatures below attest to the authenticity of this Report on HB 1315, an act relative to the definition and classification of dams.

#### *Conferees on the Part of the Senate*

Sen. Johnson, Dist. 2

Sen. Eaton, Dist. 10

Sen. Hassan, Dist. 23

#### *Conferees on the Part of the House*

Rep. Currier, Merr. 5

Rep. Irish, Sull. 4

Rep. Ahlgren, Carr. 4

Rep. Spang, Straf. 7

### 2006-2339-CofC

#### AMENDED ANALYSIS

This bill:

I. Changes the names for classification of dams from letters to names based on the hazard potential of the dam.

II. Exempts certain storm water detention dams from the definition of "dam."

III. Authorizes the department of resources and economic development to accept the Jericho Lake dam and dike in Berlin.

IV. Authorizes the fish and game department to acquire property rights to Big Brook Bog dam in Pittsburg.

V. Requires the dam management review committee to study and report on the potential sources of funding for the repair and maintenance of dams by the state.

SENATOR HASSAN: Thank you, Mr. President. I rise in support of the Committee of Conference report, but I also rise as one of thousands of New Hampshire residents whose home was evacuated last Monday during the floods. I received a call here at the State House from my thirteen-year-old, Monday morning, saying, "Mom, they've given us fifteen minutes to evacuate because they think the dam in Fremont, which is upriver from Exeter, may burst." My family, like thousands of others across the state, was thrown into understandable panic and concern about whether we would be safe and whether our home would survive the flood. Thankfully, my home did survive the flood and is dry. Three homes on my street are not, and much of Exeter is still recovering from the flood, as is a great portion of the town of Newmarket, also in my

district, and several other towns. I rise to remind us all of this, not because we need reminding of the devastation of the floods last week or last fall, all of us understand that well, but I do rise also to remind us that about a month ago, we chose not to concur in the expenditure of a million dollars for dam inspection and maintenance that would have been, the House has appropriated under Senate Bill 103. House Bill 1315, which I hope we will concur in today, will provide a study committee on the inspection and maintenance of dams, and it provides the beginning of an additional revenue stream because of the way we are now going to register dams. But there is much work to be done in this state. We have dams owned by the state, we have dams owned by private entities, we often don't know who owns all of them, and we certainly need to be careful and look forward to allotting the appropriate amount of money so that all of New Hampshire's residents can be confident that our dams are in good shape, that they are inspected regularly, and that they will hold during the storms such as the ones we've now had. So, I thank the Senate for its attention, I urge everyone to vote in favor of concurring with this Committee of Conference report, and I hope that we will all, in the future, appropriate the kind of money that we need to, to take care of ourselves. Thank you.

SENATOR BURLING: I want to first just commend my colleague, Senator Johnson. I sat next to him in the Committee of Conference on another bill where this issue of the dam study was raised. He held all of us to a higher standard, demanding that the dam study not be lost in the process of Committee of Conference. I would say to all of us, we dodged a bullet last week. Once again, the fates were very kind to the state of New Hampshire. I remember driving through a great deal of water in East Andover watching a group of Andover firemen observe and sandbag as a dam simply began to dissolve in front of them. That it did not carry away and flood the city of Franklin, is a matter of, I think, frankly, divine intervention. We need to put the money on the table next year to make sure that we know, first, who owns every one of these dams. In all candor, there are lots of dams we have no idea the ownership of, and we need to have a plan in place to start repairing them. Thank you, Mr. President.

SENATOR JOHNSON: Thank you, Mr. President. I want to thank Senator Burling for those kind words. I will say that the dam management review committee has been in place for some time, and so I don't want to have this body think that it's been something that has been neglected. The Department has about thirty people involved on a year-round basis, looking at these dams and repairing what has to be repaired. I think the unusual event that happened just recently is something that would be pretty much unavoidable. However, I do agree with Senator Hassan that it is a very important issue that we should address next year. They've indicated that they do have enough moneys available to get through this biennium, but there is no question that we do need that money available for next year. Thank you, Mr. President.

**Adopted.**

**May 19, 2006**

**2006-2351-CofC**

**05/01**

Committee of Conference Report on HB 1331, an act relative to the New Hampshire Temporary Assistance to Needy Families (TANF) program.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 167:82, V(a) as inserted by section 8 of the bill by replacing it with the following:

***(a) The initial sanction shall consist of reduction of financial assistance benefits representing the needs of the individual who is out of compliance. The second level of sanction shall consist of reduction of 1/3 of the adjusted payment standard for the assistance group. The third level of the sanction shall consist of reduction of 2/3 of the adjusted payment standard for the assistance group. The initial sanction and the second level of sanction shall each apply for a 2-week period. The third level of sanction shall apply for a 4-week period, at the end of which the TANF financial assistance case shall close if the participant remains in noncompliance. Progressive sanctions shall apply unless and until the participant demonstrates full compliance.***

Amend section 18 of the bill by inserting after RSA 167:93-c the following new RSA section:

167:93-d Performance Measurement System. The department of health and human services may establish an outcome measurement system with quarterly reports and yearly summaries to the oversight committee on health and human services, established in RSA 126-A:13, with the following areas as guidelines:

I. The job retention and earnings gain indicators using the same methodology as the TANF high performance measures.

II. The number and percent of cash assistance recipients who close each month due to employment, the average hourly, weekly, and monthly wages, the average total weekly and monthly total income, the number and percent who return to cash assistance after three, six and 12 months.

III. The extended earnings of families who leave TANF due to employment.

IV. Numbers and percentages of families who leave TANF due to employment and stay employed.

V. Numbers and percentage of families who increase their earnings after leaving TANF.

VI. Numbers and percentages of TANF families that move out of poverty.

VII. Poverty and child poverty rates and out of wedlock births and the national ranking of New Hampshire.

VIII. The impact of TANF policies on local assistance as reported by the Local Welfare Administrator's Association.

IX. Any other measures selected by the department which show how TANF has moved families out of poverty and into employment.

The signatures below attest to the authenticity of this Report on HB 1331, an act relative to the New Hampshire Temporary Assistance to Needy Families (TANF) program.

*Conferees on the Part  
of the Senate*

Sen. Morse, Dist. 22  
Sen. Gatsas, Dist. 16  
Sen. Clegg, Dist. 14

*Conferees on the Part  
of the House*

Rep. Batula, Hills. 19  
Rep. Hager, Merr. 12  
Rep. Mackay, Merr. 11  
Rep. Price, Hills. 26

SENATOR FULLER CLARK: Thank you very much, Mr. President. I rise in opposition to the Senate adopting the position of the Committee of Conference. I rise to remind all of us that TANF is a program that is put in place to help our weakest families, that means mothers with children, to achieve financial self-sufficiency, and to raise our children out of poverty. First of all, in order to qualify for the TANF program, you must have a child, so I think it's key to recognize what that means, and I'm here today to tell you that House Bill 131 [sic] as put before us, runs the great risk of removing mothers and children from the TANF process too early with the sanctions that have been put forth in this legislation. The sanction period now will take place within eight weeks. Currently, that sanction period has taken place within seven months. We need to find a more reasonable compromise. There will not be the time in that eight-week period for the Department of Health and Services to adequately determine whether or not there is good cause on the face of those women for noncompliance. Too often, the reason for noncompliance is because childcare is not available, and what we're also doing with this bill, in terms of responding to the federal need, is asking mothers to put their children in childcare a year earlier, and yet we haven't solved the problem of adequate childcare for young families in this state. This hasty sanction process is damaging and unwise. Secondly, there is the issue of the fact that we need to be able, through the federal regulations, to meet a compliance percentage of having 50% of those people in the program in the work force participating at one level or another in the program. An excellent amendment was brought forward to the Conference Committee that would provide additional financial support to mothers already at work. That is a program that has proved to be very successful in other states. It has kept women employed, and it could be used and counted as part of the percentage for the Department of Health and Human Services in New Hampshire to meet that new rigorous 50% requirement. We have heard, in many expert testimonies that were put before us, that the program the Department of Health and Human Services has manufactured in this bill, right now, without that workforce enhancement payment, more than likely will not meet that 50% requirement, and that the state will be exposed to millions of dollars of fines from the federal government. The third thing in this bill is it fails to require the state to collect the appropriate information and data that is necessary as we go forward, to determine whether or not the TANF program is actually working so that we can continue to improve it. The Department stated that they could not meet that data collection requirement because they didn't have the staff, but at the same time, they felt that they had the staff to be able to implement a vastly shortened sanction period. There's something there that doesn't compute. It's important to understand that we do not need to pass this bill now, that we can come back in January of next year, after we have gotten the final regulations from Washington. This building is premature, it is precipitous, and ultimately, it runs the risk, where we as a state have had a very high record of keeping children out of poverty. We want to maintain that record. This bill runs the risk of destroying that record, putting more children at risk, and shifting that cost, once again, to local towns and cities, and you know what that means, it means shifting the cost to the local property taxpayers. This is not needed legislation right now, it runs the risk of hurting our poor and most vulnerable families in this state, and I urge you to object and vote no on the Conference report, on the adoption of the Conference report. Thank you.

SENATOR BARNES: Senator Martha Fuller Clark. I have a copy of the Committee of Conference report in front of me, like you do, and I see two names that were on that committee, two House members who, over the years, I've heard their very similar in passionate speeches, like you have, on this issues, and they're both signed off on it. I'm talking about Representative Hager and Representative MacKay, both representing the city of Concord. I just wonder, did you have a chance to talk to them before this Committee of Conference report was signed?

SENATOR FULLER CLARK: I did have a chance to talk them actually, Senator Barnes. I served on that Committee of Conference report. I was there for all of the deliberations and negotiations. It was Representative Hager's amendment that came forward with many of the elements that would have made this a better bill. That amendment was voted down by the Committee, and I know that when Representative Hager signed this report, she verbally expressed her reluctance and her dissatisfaction with the report, but she did go ahead and sign it. I felt, because it was going to hurt our towns and cities, and hurt our mothers and children, that I could not sign it. Thank you.

SENATOR BARNES: Thank you.

SENATOR ESTABROOK: Thank you, Mr. President. I also rise in opposition to the Committee of Conference report on this bill. The reauthorization of TANF at the federal level recently is yet another example of a federal change without the resources necessary to really make it work. As Senator Fuller Clark explained, we are under direction to increase our work participation rates significantly, and the only new resources the federal government has provided for this, some I do thank them for, are \$200 million for childcare nationwide. But the estimated cost of implementing this change nationwide is over \$2 billion. So it seems to me that this is a change in the federal law that we should take our time in figuring out how we want to meet the requirements, and how we are going to address this change. Unfortunately, when this bill came to the Senate floor previously out of the Senate Finance Committee, I stood to protest that it had not gone to a Senate policy committee, and I protest that again today. I think not only is that poor procedure in legislative work, but it also has resulted in some of the deficiencies we see in the measure before us today. The process we engaged in has resulted in a bill that will be approved without considering, really, the recommendations from the National Governors' Association, or the National Conference of State Legislatures on how we could meet these requirements in other ways. It's a bill that is before us without the benefit of having heard from the local welfare administrators on what this will mean for them, and it's a bill that is before us without having considered a range of other strategies that are available to us to meet this federal requirement. We have not discussed alternatives like up-front diversion, other definitions of allowable work, post-employment assistance, or a variety of other approaches we could have taken. I too, share Senator Fuller Clark's concern that the bill now calls for children as young as twelve weeks of age to be in childcare, where, I do not know, since very few programs serve infants in our state. The requirement that within four weeks the recipient will lose two-thirds of their assistance for not having come into compliance, when the process to help them do that is not thorough, is hasty also in my mind. All in all, I think what we have before us is a proposal that has gone beyond the minimum necessary changes that we need to make at this time, and I think it would be in the best interest of our state if we reject it. Thank you, Mr. President.

SENATOR HASSAN: Thank you, Mr. President, of Senator Fuller Clark, please. Senator Fuller Clark, do you know how much of the federal money that Senator Estabrook referenced for childcare would actually come to the state of New Hampshire?

SENATOR FULLER CLARK: Out of the \$200 million, \$750,000 to approximately \$1.2 million could come to the state of New Hampshire, which is simply an insufficient amount of money to stimulate the establishment of the childcare that we would need to make it possible for these mothers to be in compliance. It is a meager support from Washington and clearly not adequate.

SENATOR HASSAN: Thank you.

SENATOR BOYCE: Mr. President, at the risk of belaboring this **(TAPE CHANGE)** I believe the time was maybe Vice President of the United States stood up and said that he was going to end welfare as we know it, and lo and behold it happened. When that happened, the mandates that were sent down from Washington, when they got to the state, I recall that the debates then were, this is going to throw people on the backs of the town welfare. We're going to see people living under bridges again. It will increase homelessness by ten-fold. All kinds of horror stories that we thought were going to happen, or that some people thought were going to happen when this happened. But the reality of that is that, when we changed welfare as we knew it, the system that provided for people to live their entire life on the public dole, and instead required that they actually make some attempt to provide for their own welfare, and their own upkeep, that bill then, TANF, did not put millions of people onto the backs of town welfare, didn't put millions of people under bridges. What it did was it made some phantom children that never existed disappear. Children that were being shuttled from home to home whenever the welfare worker showed up to count heads. It made people who had been on welfare forever go find something else to do with their lives rather than sit home and collect welfare checks. And in fact, that program was so successful, that money that was dedicated to it by the federal government is sitting in Washington waiting for this next huge recession that has yet to happen, that will throw everybody out of work and make everybody have to take TANF again. Didn't happen. The money's still there, the money will stay there. What this bill does, is it tightens it up a little bit more. It says that some people that currently, I think we were told 70%, of the people who come in and apply for welfare, or TANF, 70%, I think that was the number, come in and never even come in for their employment evaluation. They're supposed to come in for a little meeting with a counselor to decide what kind of a job should you look for. Do you need training before you can get that job? Do you need childcare to get that job? Just come in and talk to us. They didn't come for the appointment. They didn't come back. They got their check and went home. This tightens that up. It says you can't do that anymore. It says you can't sit at home for seven months and get a check and do absolutely nothing. It says you got some requirements. You have responsibilities. With rights come responsibilities. It says that you're responsible for actually showing up and at least making an up-front effort to comply with the law that says that you have to try and find a job. That's what this bill does. This bill says to people that are on TANF, you have to actually pretend like you want to comply with the laws. You have to at least come in to talk to the counselor, or we're going to take your check

back. We're going to stop giving you this free money. It's not free money; it's the taxpayers' money. We're going to stop doing that. So I just wanted to make sure that this was not a one-sided debate. Thank you.

SENATOR D'ALLESANDRO: Thank you, Mr. President. Talking about one-sided debates, let's talk about Committees of Conference where discussion took place, and let's talk about reality. I think that's what we should be discussing at Committees of Conference, and when we're making decisions as to whether or not approve something that may have a dramatic impact on the lives of the people we serve. AFDC was eliminated under the Clinton administration, and TANF, Temporary Assistance to Needy Families, was initiated. Two bienniums ago we did a study, Senate Bill 12, and we looked at the TANF program in the state of New Hampshire. I sponsored that piece of legislation. We did extensive research on what was happening in New Hampshire with regard to TANF recipients. What we found was this. New Hampshire was doing an outstanding job. We never drew down all of the TANF money that was available to us. But a problem that we had was that certain restrictions put on by the federal government did not allow these families to take full advantage of education. They could go for a certificate. They could go for an Associate Degree, but they couldn't get a Bachelor's Degree, and one of the recommendations that we made was that something should be done to enhance the education process. We've done a good job with TANF. The federal regulations don't come down until the thirtieth of June. Why should we preempt federal regulations by putting in regulations of our own that appear to be punitive. Why punitive in a situation that's been very successful in New Hampshire? Why do we punish people for doing the right thing? What we like to see, is what happens to a TANF recipient once they get a job. What about job retention? What about income enhancement? What about reducing recidivism? All of these are things we should consider before we put in punitive measures. That's what our job is as a member of the legislature. Our job is to find a way to make things work better. We have found a way in New Hampshire to make TANF work. It has been successful. This Committee of Conference turns us in the other direction. That's a direction I'm not going in. Thank you, Mr. President.

SENATOR MORSE: Thank you, Mr. President. Senator, my daughter wants to know why you're yelling. I didn't tell her about you beating on the table.

SENATOR D'ALLESANDRO: Tell her that's enunciation, elocution.

SENATOR MORSE: First of all, let me point out what Senator Boyce said. 70% of the people don't show up. 70%. If nothing else, we're going to correct that. In order to collect the check, you should have to be involved in the process. How do we know that they even legitimately should be in the process right now? In our discussions with the House, we didn't discard what Representative Hager brought in. That was not the truth. The truth is, performance measurement system is a great idea. We put it into the legislation. They acceded to the Senate's position and we put that in as an amendment. We further talked about sanctions. The sanctions that were offered, opposite our sanctions, which we extended from six weeks to eight weeks, would have given those who truly needed, truly needed, more money, based on the Senate's position. So that's why we didn't adopt Representative Hager's position. We talked about childcare. We talked about transportation. I don't think anyone that attended all those meetings last week for TANF could say that the Department is not prepared to move forward. They did speak about the areas that they need to work

on, but they have done an incredible job with what's being forced upon them. I support them. I support this Committee of Conference, knowing that you're going to have to come back and do a transfer. We put \$500,000 in this piece of legislation. You really need about \$800,000 on the two-parent situation. We heard about that in this Committee of Conference. We didn't solve that. That was a grant they thought they were going to get. I'm sure we'll solve that when we go to Fiscal. That's the only thing we've left out of this legislation. I think it's a good compromise. I believe that's why Representative Hager signed on this. We did work on this last week. Many a piece of legislation ended up in Finance this year. It was a very short time period to get legislation out. It was very difficult, but I don't think we shortchanged the debate at all in the Senate or in the Committee of Conference. We met at least four times, that I know of, in the Committee of Conference to discuss this, and many an outsider came in to speak to the state of New Hampshire about what was right about this piece of legislation. I thank you, and I ask for your support in this Committee of Conference.

SENATOR FULLER CLARK: Thank you very much, Mr. President. I would like to, first of all, address the issue of what is expected in that report, and to understand that in the amendment that came forward, and I believe I spoke to this, correctly, the amendment wished to require that certain data be collected, and the word "shall" was replaced by "may." So there is no guarantee that the data that we need to have to evaluate this program as we move forward is actually going to take place. That is a difference. The second thing, I think it's important to understand, is this whole issue of the enhancement supplement, and the fact that this is a program that has been adopted by many other states, and that were many people who came forward who spoke against this legislation during the Committee of Conference, because we were not including that pay enhancement, because we were creating a sanction period that was too short, albeit, that the sanction period that has been in place has been too long. And the question is, how are you going to be able to not only determine good cause in that short period of time for noncompliance, but how are you going to solve that problem of noncompliance when it's relying on the issue more often than not? If those women who do not show up, do not show up because they either have a major childcare problem they can't solve, they have a transportation problem that they can't solve, they have a mental illness problem, and what we learned in the process of the Committee of Conference, was that in many cases, the Department didn't reach out and have a home visit or make a personal contact currently until five months into the sanction process. That's what we're concerned about. That's why we believe that this bill, as it's presented to you today, is going to have damaging repercussions on children and mothers and may continue to put us at risk with the federal government and their regulation. Thank you.

**A division vote was requested.**

**Yeas: 15 - Nays: 9**

**Adopted.**

**May 16, 2006  
2006-2275-CofC  
05/03**

Committee of Conference Report on HB 1332, an act establishing a commission to study health care in New Hampshire correctional facilities.



**Recommendation:**

having considered the same, report the committee is unable to reach agreement.

The signatures below attest to the authenticity of this Report on HB 1332, an act establishing a commission to study health care in New Hampshire correctional facilities.

*Conferees on the Part  
of the Senate*

Sen. Letourneau, Dist. 19  
Sen. Martel, Dist. 18  
Sen. Fuller Clark, Dist. 24

*Conferees on the Part  
of the House*

Rep. MacKay, Merr. 11  
Rep. Chaplin, Straf. 3  
Rep. Barry, Hills. 16  
Rep. Schulze, Hills. 26

SENATOR LETOURNEAU: I just want to bring to attention to the Senate, thank you, Mr. President, that the recommendations on the Committee of Conference has "considered the same report the Committee is unable to reach agreement." That isn't what we agreed on. We agreed to disagree, and that should have been part of the record, and it's not here.

SENATOR CLEGG: Mr. President, I believe that "unable to reach agreement" is the same as agreeing to disagree. But I would like to call for a division on that last vote, because I believe the vote was whether or not to accept the report, which was unable to reach agreement, which basically kills the bill. Am I correct?

SENATOR GATSAS (in the chair): That is correct.

**A division vote was requested.**

**Yeas: 19 - Nays: 5**

**Adopted.**

**May 17, 2006  
2006-2307-CofC  
05/10**

Committee of Conference Report on HB 1343, an act relative to the duties of the council on resources and development.

**Recommendation:**

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 7 with the following:

7 Department of Environmental Services; Appropriation for E-Permitting Database. For the purpose of completing the department of environmental services e-permitting database, the following sums are appropriated from the identified funds to the department of environmental services for the fiscal year ending June 30, 2007:

I. \$510,000 from the oil discharge and dispose cleanup fund established in RSA 146-D:3.

II. \$100,000 from the air resources fund established in RSA 125-C:12.

The signatures below attest to the authenticity of this Report on HB 1343, an act relative to the duties of the council on resources and development.

*Conferees on the Part  
of the Senate*

Sen. Gatsas, Dist. 16

Sen. Clegg, Dist. 14

Sen. D'Allesandro, Dist. 20

*Conferees on the Part  
of the House*

Rep. Chandler, Carr. 1

Rep. Rausch, Rock. 5

Rep. Waterhouse, Rock. 4

Rep. Cloutier, Sull. 4

**2006-2307-CofC**

AMENDED ANALYSIS

This bill:

I. Requires the council on resources and development to give advice, rather than approval, prior to the disposal of state-owned lands.

II. Removes the binding effect of the council's recommendations relative to coordination of member agencies.

III. Requires the council to provide the legislature and governor and council with copies of the council's meeting minutes.

IV. Requires the New Hampshire housing finance authority to obtain the approval of the long-range capital planning and utilization committee, with advice from the council on resources and development, and final approval by the governor and council, prior to the transfer of lands under the surplus lands housing program.

V. Makes an appropriation to the department of environmental services for completing the e-permitting database from certain dedicated funds.

VI. Amends the capital appropriation to the New Hampshire veterans' home for repairs and renovations.

SENATOR LARSEN: Thank you, Mr. President. Like many of you, I received correspondence from constituents relating to this raid on the ODD fund. It is, as all of us recognize, a complicated issue, complicated by the fact that the bill also contains the bonding money for the veterans' home. Many of us would like to have a better discussion on how the Department of Environmental Services E-permitting program is paid for. But I think everyone in the room, I assume everyone in the room, would agree that those folks who are paying into what's known as the ODD fund are, in fact, assuming that that money will be used for clean-up and gasoline, soil, water remediation issues, and that as they and consumers pay for gas, this is supposed to go into a fund that will assist that clean-up. So, we have a situation of a bill that has something we want to accomplish, which is the veterans' home, tied to a very difficult, and one measure which many people of our constituents would, if they knew we were raiding this fund, oppose. So I simply rise to say we're in a quandary on this bill, and it is unfortunate that an important issue such as the remodeling of the veterans' home, and it's bonding, is tied to this raid on a fund that I think many people are paying into, trusting that it will be used for the appropriate use. So, I rise to oppose the addition of this language into what was a very good idea, which is the remodeling of the veterans' home.

SENATOR BARNES: Yes. Thank you, Mr. President. I might have two questions here. The question, I guess, is of you, that man up there. Is there some way that we can get that money for the veterans' home other than through this piece of legislation?

SENATOR GATSAS (in the chair): Senator, I believe that all legislation has come before us. There's no suspension of the rules that will allow us to bring, there is a suspension of the rules, that will allow us to bring in new legislation, but I don't think that's a road we want to go down today.

SENATOR BARNES: So the answer is there are no magic wands for the veterans' home?

SENATOR GATSAS (in the chair): Senator, I wish I had a rabbit to pull out of the hat for you.

SENATOR BARNES: Well then, I'll make a comment instead of a question. This is what folks do in Washington. They tuck it, and this is a tucker bill and I'm sorry. Thank you, Mr. President.

SENATOR FLANDERS: Thank you, Mr. President. I also rise to be opposed to that portion of it based upon the research I've done with the oil dealers. I have a problem with the veterans' part. I think we are really in a bind. If this bill passes, and I would suggest that whoever comes back next year, present in January, legislation defining the ODD fund and it that it can't be raided again. I, for one, who tried to get some money from the highway fund, if you remember. I mean, I was running up against a brick wall, and I think this should be the same way. So, whatever we do today, I would hope that somebody next year, if I come back I certainly will do it, define what it is, define where the money goes, and define that it stays there. Thank you.

SENATOR BRAGDON: Thank you, Mr. President. I've been looking at this bill all morning, deciding how much I dislike it, and the more I look at it, the more I dislike it for the exact reason that's been brought up. One penny of every gallon of gas that you buy goes in the fund of oil clean-up and spill clean-up. It's being used for something totally unrelated to that. Fortunately, the highway fund has a constitutional provision to prevent this from happening. There's no law that this body can pass next year that will stop this from happening again. Therefore, Mr. President, I request a roll call.

SENATOR MORSE: While we're talking constitutional issues, I think the most important part of this piece of legislation is the first part and it deals with court. One of the things we've allowed to happen in the state of New Hampshire is we've allowed highway money to come into this state of New Hampshire, purchase land, and then slowly go through a process in the state of New Hampshire of ending up in another department without reimbursing the highway fund. Senator Clegg and I worked on this for the last two or three years, to stop that process from happening. We are having difficulty balancing the highway fund. Yet, our own departments are taking the land that we should be selling, if that's what we're going to do with it, if we've determined that it's surplus land, someone should be paying for it. And if we choose, as a state to buy it, in a department, we ought to fess up to it. That's an important part of this piece of legislation. Now, the difficulty in Committees of Conference with bonding, the House stood fast on bonding. We made them stand fast on Alstead. We said if you can't bond, you can't bond Alstead either, which was the Senate's position that we should be paying cash on. Now the problem we face right now, this morning is, if we were to request another Committee of Conference, based on the relationships last week, there's no guarantee that the veterans or the court process will survive. I don't think anyone in here can go over and say they'll get a vote, based on the fact that there had to be a dozen amendments that didn't get addressed last week, and the House's position, in my mind, would be, we're going to address one, we're addressing the other eleven. It's a tough position to be put in. My community has used the ODD fund. We've had problems with water, and we've realized where the oil dealers are coming from. I asked last week where Senator Barnes was on this position. I

didn't get that answer. I probably could have guessed it myself. He's protected that for year. But where was the Department, because this specifically became a change from the Department. They recommended that we go to this fund to create this \$600,000. Now did they have a choice? I don't know. Our choice was bonding here in the Senate. We couldn't get that through on any legislation, so we didn't have that option. We had to find money. And the underlying premise on that is, we've guaranteed the business people in this community that we would get their permits out, and we can't do that without finishing the system. We didn't put enough money in the capital budget. So I ask you to support the position today. I agree that you need to come back and lock up the ODD fund. It shouldn't be a place that you can go to. But I think, at this point, based on the process that we all agreed on, we've been left with very little choice.

**SENATOR BURLING:** Thank you, Mr. President. For Senator Morse, if you'll yield. As part of the information we need in order to evaluate this, it seems to me one of the essential issues is do we have the money some place else. What I've heard is, as a result of all of the expenditures, etc., compromise agreements, failures to reach agreement on, for instance, the county bill, we, in effect, have an unexpended balance of about \$3.8 million. Am I anywhere near correct?

**SENATOR MORSE:** I figure it's \$3.4 million.

**SENATOR BURLING:** \$3.4 million. So at least if we could figure out a way to do it, and have faith in the House to respond to us, the general fund revenues are there to pay this bill.

**SENATOR MORSE:** Senator, I don't believe that, and I told our caucus this morning that we've left some things undone. I believe you need to go back and address the county bill. We could not get agreement on going into the education trust fund. We need a million dollars to solve our problem with the counties in order to add to that \$3.4, \$3.5 million that we do have. We couldn't get that agreement. So I believe, in January, you'll be addressing that, but I do not believe there is \$600,000 on the table to put general funds into this line. Thank you.

### **Recess.**

**SENATOR D'ALLESANDRO:** Thank you, Mr. President. Just some quick information with regard to the Committee of Conference, the ODD fund. On the 30<sup>th</sup> of April, 2006, the ODD fund had a balance of \$10,106,732. Currently the fund is divided into two parts - the VST and the AST. This is in terms of assistance. There are twelve claims pending on one account, and two hundred and forty claims pending on the other account. The twelve claims would amount to \$134,000, the two hundred and forty claims to \$1.385 million, so there is enough money in-house to address every claim. Now the question is, when this first came to Committee of Conference, the dollars were not allocated from this fund and from the air fund; they were allocated from the equipment fund. The Commissioner came back to the Committee of Conference, changed, and the moneys were allocated from this fund. The fund has a threshold. It's always five million, never goes below five million, and never goes above ten million, that's the statute. The question is would anybody be denied? The answer is no, because there is enough money to handle that, but the question before the body is the process. That's a decision we'll make when we vote. But it should be clear to everyone that there is enough money to handle every claim that's in place at this time. Thank you, Mr. President.

SENATOR ESTABROOK: Thank you, Mr. President. Question of Senator D'Allesandro. In addition to the concerns about the policy decision we're making here by going into this fund for the purpose it was not intended for, which I share, I had another concern in that one of the communities I represent is currently in process of trying to receive a payment from this fund of several hundred thousand dollars. So, from your statement, is it correct for me to assume that that will not be interfered with?

SENATOR D'ALLESANDRO: That's correct, Senator. Based on the information I have from DES, and I got this, this morning, that there's no problem paying any of the claims.

SENATOR ESTABROOK: Thank you very much.

SENATOR D'ALLESANDRO: You're welcome.

SENATOR BARNES: Yes, of Senator D'Allesandro. When you were talking to the Commissioner, you must have talked to him after I did when he said he didn't really care if this stayed in here or not.

SENATOR D'ALLESANDRO: I didn't talk to the Commissioner.

SENATOR BARNES: Oh, you didn't talk to him. Who did you get those numbers from?

SENATOR D'ALLESANDRO: I got these numbers from a member of the staff, Renee Pelletier.

SENATOR BARNES: Okay, further question. Did he tell you how much money is going to be coming forward when the town of Newmarket, Salem, New Hampshire, and some others, this last flood, and Raymond, two tanks coming down the river that had to be cleaned up? Did he bring in what's going to happen with this latest flood that we've had?

SENATOR D'ALLESANDRO: No, Senator, he didn't bring in future. What he gave me...

SENATOR BARNES: Not in the future; what's happening to the people right now?

SENATOR D'ALLESANDRO: In answer to your question, he gave me what's on the books at the present time. This is the best information that I could get, as of the moment.

SENATOR BARNES: As of the moment, until these other folks come in. Thank you.

SENATOR D'ALLESANDRO: Everything is important, but I think the answer to your question is, this is the information that was available at this moment in time. It's the best information I can give you.

SENATOR BARNES: Thank you.

SENATOR D'ALLESANDRO: You're welcome.

SENATOR CLEGG: Thank you, Mr. President. I'd like the body to know that I did approach the House to see what would happen if we attempted to go back to a Committee of Conference and, as we suspected, there was no mood for reforming. So what we're stuck with is one piece of the bill that most of us don't like, but most of us do like, probably the most favored one, is helping the veterans' home. So, after speaking to the members, the Senate members of the Fiscal Committee, we've gotten together, we're going to do everything we can to find money someplace else in the budget, and make a transfer through the Fiscal Committee process to

pay for this, so we don't actually have to touch the oil fund. Can't guarantee that we're successful. I believe that the five members are pretty forceful on that committee, and have some relationships with the members of the House, so I think our chances of success are great. But I also think that none of us want to stop the veterans' home from being renovated simply because we disagreed with, and I shouldn't say simply, but because we disagreed with one portion of the bill. I think that we can still work around it. We can still make everyone happy, if you just give us a chance. Thank you.

SENATOR BARNES: Based on what Senator Clegg said, and I trust his word, and I also trust the word of other folks that have talked about it, and I will change my vote. But I hope the heck we take care of this matter so it doesn't happen every two years like it did last time, and here it is again this year, and we won't go any further. I'll stop at that.

SENATOR CLEGG: Thank you, Senator.

SENATOR BARNES: This isn't Washington, remember it's Concord.

**The question is on adoption of the Committee of Conference Report.**

**A roll call was requested by Senator Bragdon.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Boyce, Burling, Green, Flanders, Odell, Roberge, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: Kenney, Eaton, Bragdon.**

**Yeas: 21 - Nays: 3**

**Adopted.**

**May 17, 2006**

**2006-2289-CofC**

**08/09**

Committee of Conference Report on HB 1373, an act establishing a commission to study ways to encourage the proper recycling and disposal of grease trap wastes and to determine ways to develop additional disposal capacity.

**Recommendation:**

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House each pass the bill as amended by the House.

The signatures below attest to the authenticity of this Report on HB 1373, an act establishing a commission to study ways to encourage the proper recycling and disposal of grease trap wastes and to determine ways to develop additional disposal capacity.

*Conferees on the Part  
of the Senate*

Sen. Johnson, Dist. 2

Sen. Gallus, Dist. 1

Sen. Burling, Dist. 5

*Conferees on the Part  
of the House*

Rep. B. Williams, Graf. 8

Rep. Babson, Carr. 3

Rep. Currier, Merr. 5

Rep. Powers, Rock. 16

**Adopted.**

**May 17, 2006**  
**2006-2305-CofC**  
**06/09**

Committee of Conference Report on HB 1407-FN-A, an act relative to funding exotic aquatic weeds eradication and control.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

The signatures below attest to the authenticity of this Report on HB 1407-FN-A, an act relative to funding exotic aquatic weeds eradication and control.

*Conferees on the Part  
of the Senate*

Sen. Boyce, Dist. 4  
 Sen. Barnes, Dist. 17  
 Sen. Burling, Dist. 5

*Conferees on the Part  
of the House*

Rep. Currier, Merr. 5  
 Rep. Major, Rock. 5  
 Rep. Sanders, Rock. 7  
 Rep. Cilley, Straf. 3

**Adopted.**

**May 16, 2006**  
**2006-2260-CofC**  
**06/09**

Committee of Conference Report on HB 1426, an act granting a right-of-way over state-owned land.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House each pass the bill as amended by the House.

The signatures below attest to the authenticity of this Report on HB 1426, an act granting a right-of-way over state-owned land.

*Conferees on the Part  
of the Senate*

Sen. Kenney, Dist. 3  
 Sen. Flanders, Dist. 7  
 Sen. Burling, Dist. 5

*Conferees on the Part  
of the House*

Rep. Graham, Hills. 18  
 Rep. D. Campbell, Hills. 24  
 Rep. O'Connell, Hills. 26  
 Rep. Bouchard, Merr. 11

**Adopted.**

**May 17, 2006**  
**2006-2288-CofC**  
**08/09**

Committee of Conference Report on HB 1429, an act relative to municipal exemptions for hazardous waste cleanup liability.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

The signatures below attest to the authenticity of this Report on HB 1429, an act relative to municipal exemptions for hazardous waste cleanup liability.

*Conferees on the Part  
of the Senate*

Sen. Green, Dist. 6

Sen. Barnes, Dist. 17

Sen. Larsen, Dist. 15

*Conferees on the Part  
of the House*

Rep. B. Williams, Graf. 8

Rep. Babson, Carr. 3

Rep. Phinizy, Sull. 5

Rep. O'Neil, Rock. 15

**Adopted.**

**May 19, 2006**

**2006-2347-CofC**

**04/10**

Committee of Conference Report on HB 1459-FN-A, an act relative to the department of regional community-technical colleges and making an appropriation therefor.

**Recommendation:**

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 Department of Regional Community-Technical Colleges; Appropriation. The sum of \$400,000 for the fiscal year ending June 30, 2007 is hereby appropriated to the department of regional community-technical colleges to enable the regional community-technical college board of trustees to maintain tuition at its present level for the 2006-2007 academic year. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

2 Regional Community-Technical College System; Use of Nonlapsing Account.

I. No later than October 1, 2006, the commissioner of the department of regional community-technical colleges shall determine the amount of funds needed from the nonlapsing account established in RSA 188-F:14-c to maintain tuition at its present level for the 2006-2007 academic year. The commissioner, with the prior approval of the fiscal committee of the general court and the governor and council, is hereby authorized to use such amount from the nonlapsing account to enable the regional community-technical college board of trustees to maintain tuition at its present level for the 2006-2007 academic year. Funds available in the nonlapsing account shall be used for the purposes of this paragraph prior to any other use.

II. In addition to any other authorized uses of the nonlapsing account established in RSA 188-F:14-c, the commissioner of the department of regional community-technical colleges, with the prior approval of the fiscal committee of the general court and the governor and council, may use any funds in the nonlapsing account, that are not required under paragraph I, for the construction of a health education center nursing wing at the New Hampshire technical institute in Concord.

III. The authority granted under this section shall expire on June 30, 2007.



## 3 Effective Date.

I. Section 1 of this act shall take effect July 1, 2006.

II. The remainder of this act shall take effect upon its passage.

The signatures below attest to the authenticity of this Report on HB 1459-FN-A, an act relative to the department of regional community-technical colleges and making an appropriation therefor.

*Conferees on the Part  
of the Senate*

Sen. Green, Dist. 6

Sen. Morse, Dist. 22

Sen. Estabrook, Dist. 21

*Conferees on the Part  
of the House*

Rep. Weyler, Rock. 8

Rep. E. Anderson, Merr. 13

Rep. M. Smith, Straf. 7

Rep. Chandler, Carr. 1

**2006-2347-CofC**

## AMENDED ANALYSIS

This bill:

I. Makes an appropriation to the department of regional community-technical colleges for tuition maintenance and authorizes the temporary use of the department of regional community-technical colleges nonlapsing account for tuition maintenance.

II. Authorizes the use of nonlapsing account funds for construction of a health education center nursing wing at the New Hampshire technical institute in Concord.

SENATOR LARSEN: I simply rise to say that I wish, as a sponsor of this bill, that we had succeeded in fact, in giving colleges, the technical community colleges of this state, adequate resources to freeze the tuition for this next session. We did some tricky financing, and in fact moved some money around and gave them energy reimbursement, in hope that they could apply that to tuition freezes. But I sincerely hope that we will address the affordability of our community technical colleges in the next budget session, because I'm not sure this piecing together of moneys from various places will succeed in freezing college tuition rates at what is supposed to be the most affordable opportunity for people to gain skills that will enhance our economy. Thanks.

SENATOR BURLING: Thank you, Mr. President. I too, rise to express the hope that next year we'll do a better job. We are, in fact, creating two New Hampshires. The New Hampshire of the haves, and the New Hampshire of people who are struggling to hold on to what they've got. These colleges represent our best hope, our very best hope, of providing the young people and the workers of New Hampshire with a chance of finding new ways to make a living, new careers, new lifetimes. We need to adopt a policy in this state that tuitions should remain flat, and we need to adhere to that policy. I hope next year will see us in a position to do that.

**Adopted.****May 17, 2006****2006-2304-CofC****03/04**

Committee of Conference Report on HB 1463-FN, an act relative to boating and water safety.

**Recommendation:**

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

The signatures below attest to the authenticity of this Report on HB 1463-FN, an act relative to boating and water safety.

*Conferees on the Part  
of the Senate*

Sen. Letourneau, Dist. 19

Sen. Clegg, Dist. 14

Sen. Burling, Dist. 5

*Conferees on the Part  
of the House*

Rep. Carrier, Merr. 5

Rep. D.L. Christensen, Hills. 19

Rep. Russell, Belk. 6

Rep. Brueggemann, Merr. 12

**Adopted.**

**May 19, 2006**

**2006-2345-CofC**

**08/09**

Committee of Conference Report on HB 1474-FN, an act relative to unemployment compensation contribution rates and benefits.

**Recommendation:**

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing sections 4-5 with the following:

**4 Membership and Compensation.**

I. The voting members of the commission shall be as follows:

(a) Two members of the senate, appointed by the president of the senate.

(b) Two members of the house of representatives, appointed by the speaker of the house of representatives.

II. The non-voting members of the commission shall be as follows:

(a) The labor commissioner, or designee.

(b) The commissioner of the department of employment security, or designee.

(c) A member of the workforce opportunity council, appointed by the council.

III. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

**5 Duties.** The commission shall investigate and make recommendations regarding duplications in duties of the department of labor and the department of employment security.

The signatures below attest to the authenticity of this Report on HB 1474-FN, an act relative to unemployment compensation contribution rates and benefits.

*Conferees on the Part  
of the Senate*

Sen. Green, Dist. 6

Sen. Morse, Dist. 22

Sen. D'Allesandro, Dist. 20

*Conferees on the Part  
of the House*

Rep. Infantine, Hills. 13

Rep. O'Neil, Rock. 15

Rep. H. Richardson, Coos 2

Rep. Goley, Hills. 8

**Adopted.**

**May 17, 2006**  
**2006-2309-CofC**  
**08/09**

Committee of Conference Report on HB 1491, an act establishing a committee to study the publicly owned treatment plant needs of New Hampshire.

**Recommendation:**

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 8:

3 Commission Established. There is established a commission to study the publicly owned treatment plant needs of New Hampshire and state laboratory water tests and fees for such tests collected by the department of environmental services.

4 Membership and Compensation.

I. The members of the commission shall be as follows:

(a) Three members of the house of representatives, appointed by the speaker of the house of representatives, including one member of the science, technology and energy committee and one member of the environment and agriculture committee.

(b) Three members of the senate, appointed by the president of the senate, including one member of the environment and wildlife committee.

(c) Two representatives from the New Hampshire department of environmental services, appointed by the commissioner of environmental services.

(d) One representative appointed by the New Hampshire Municipal Association.

(e) Two academic representatives from the university of New Hampshire at Durham with expertise in wastewater treatment, appointed by the university.

(f) One representative from the office of energy and planning, appointed by the governor.

(g) Two representatives from publicly owned treatment facilities/works, appointed by the New Hampshire Water Pollution Control Association.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

5 Duties.

I. The commission shall study the publicly owned treatment plant needs of New Hampshire. The commission shall also:

(a) Review and study the current capabilities of the existing 85 publicly owned treatment works operating in New Hampshire.

(b) Identify and summarize current and projected population and industrial growth patterns.

(c) Document effluent criteria identified by the United States Environmental Protection Agency and the New Hampshire department of environmental services.

(d) Identify existing and proposed effluent and toxic reduction technologies.

(e) Make findings regarding potential technological solutions to effluent requirements, using wastewater treatment industry representatives as available.

II. The commission shall study water tests conducted by the state laboratory of hygiene and water test fees collected by the department of environmental services. The commission shall evaluate the need for future additions to existing laboratory tests and equipment and make recommendations for laboratory test fees and distributions to the laboratory equipment and replacement fund.

6 Chairperson; Quorum. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Six members of the commission shall constitute a quorum.

7 Report. The commission shall report its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the president of the senate, the house clerk, the senate clerk, the governor, and the state library on or before November 30, 2007.

The signatures below attest to the authenticity of this Report on HB 1491, an act establishing a committee to study the publicly owned treatment plant needs of New Hampshire.

*Conferees on the Part  
of the Senate*

Sen. Green, Dist. 6

Sen. Bragdon, Dist. 11

Sen. Hassan, Dist. 23

*Conferees on the Part  
of the House*

Rep. Currier, Merr. 5

Rep. M. Martin, Hills. 26

Rep. Keans, Straf. 1

Rep. Spang, Straf. 7

## 2006-2309-CofC

### AMENDED ANALYSIS

This bill extends the reporting deadline of the Great Bay Estuary Commission and extends the first meeting deadline of the Estuary Alliance for Sewage Treatment.

This bill also establishes a commission to study the publicly owned treatment plant needs of New Hampshire and state laboratory water tests and fees for such tests collected by the department of environmental services.

### Adopted.

**May 16, 2006**

**2006-2272-CofC**

**06/09**

Committee of Conference Report on HB 1508, an act relative to acceptance of applications by planning boards.

### Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 Building Permits to be Withheld in Certain Cases; Plat or Application Subject of Notice. Amend RSA 676:12, VI to read as follows:

VI. The provisions of paragraph I shall not apply to any plat or application which has been ~~formally accepted~~ **the subject of notice** by

the planning board pursuant to RSA 676:4, ~~[(b)]~~ ***I(d)*** prior to the first legal notice of a proposed change in a building code or zoning ordinance or any amendment thereto. No proposed subdivision or site plan review or zoning ordinance or amendment thereto shall affect a plat or application ~~[formally accepted]~~ ***which has been the subject of notice*** by the planning board pursuant to RSA 676:4, ~~[(b)]~~ ***I(d)*** so long as said plat or application was ~~[accepted]~~ ***the subject of notice*** prior to the first legal notice of said change or amendment. ***The provisions of this paragraph shall apply to proposals submitted to a planning board for design review pursuant to RSA 676:4, II(b), provided that a formal application is filed with the planning board within 12 months of the end of the design review process.***

The signatures below attest to the authenticity of this Report on HB 1508, an act relative to acceptance of applications by planning boards.

*Conferees on the Part  
of the Senate*

Sen. Morse, Dist. 22

Sen. Kenney, Dist. 3

Sen. Hassan, Dist. 23

*Conferees on the Part  
of the House*

Rep. Dowd, Rock. 5

Rep. Brundige, Hills. 19

Rep. Patten, Carr. 4

Rep. N. Johnson, Straf. 3

**Adopted.**

**May 16, 2006**

**2006-2270-CofC**

**09/01**

Committee of Conference Report on HB 1574, an act relative to membership on the public employees deferred compensation commission.

Recommendation:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

The signatures below attest to the authenticity of this Report on HB 1574, an act relative to membership on the public employees deferred compensation commission.

*Conferees on the Part  
of the Senate*

Sen. Kenney, Dist. 3

Sen. Flanders, Dist. 7

Sen. Fuller Clark, Dist. 24

*Conferees on the Part  
of the House*

Rep. Bergin, Hills. 6

Rep. Dexter, Ches. 6

Rep. Houde-Quimby, Sull. 1

Rep. S. Francoeur, Rock. 15

**Adopted.**

**May 18, 2006**

**2006-2326-CofC**

**10/09**

Committee of Conference Report on HB 1590-FN, an act relative to the pari-mutuel commission.

Recommendation:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

The signatures below attest to the authenticity of this Report on HB 1590-FN, an act relative to the pari-mutuel commission.

*Conferees on the Part  
of the Senate*

Sen. Barnes, Dist. 17  
Sen. Gallus, Dist. 1  
Sen. D'Allesandro, Dist. 20

*Conferees on the Part  
of the House*

Rep. Fitzgerald, Belk. 4  
Rep. Manney, Hills. 7  
Rep. F. Sullivan, Hills. 12  
Rep. Harding, Graf. 11

**Adopted.**

**May 17, 2006**  
**2006-2303-CofC**  
**04/09**

Committee of Conference Report on HB 1603-FN, an act relative to administration and enforcement by the division of forests and lands over forest resources and timber harvesting.

**Recommendation:**

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

The signatures below attest to the authenticity of this Report on HB 1603-FN, an act relative to administration and enforcement by the division of forests and lands over forest resources and timber harvesting.

*Conferees on the Part  
of the Senate*

Sen. Gallus, Dist. 1  
Sen. Johnson, Dist. 2  
Sen. Hassan, Dist. 23

*Conferees on the Part  
of the House*

Rep. Currier, Merr. 5  
Rep. Bergin, Hills. 6  
Rep. Russell, Belk. 6  
Rep. Parkhurst, Ches. 4

**Adopted.**

**May 18, 2006**  
**2006-2334-CofC**  
**08/09**

Committee of Conference Report on HB 1626-FN-A, an act relative to appropriations for the expenses of certain departments of the state.

**Recommendation:**

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after section 19 with the following:

20 Effective Date.

I. Sections 16-19 of this act shall take effect July 1, 2006.

II. The remainder of this act shall take effect upon its passage.

The signatures below attest to the authenticity of this Report on HB 1626-FN-A, an act relative to appropriations for the expenses of certain departments of the state.

*Conferees on the Part  
of the Senate*

Sen. Morse, Dist. 22  
Sen. Green, Dist. 6  
Sen. Estabrook, Dist. 21

*Conferees on the Part  
of the House*

Rep. Stone, Rock. 1  
Rep. R. Wheeler, Hills. 7  
Rep. King, Coos 1  
Rep. Pappas, Hills. 8

**Adopted.**

**May 17, 2006**  
**2006-2311-CofC**  
**04/09**

Committee of Conference Report on HB 1692-FN, an act establishing the New Hampshire sexual predators act.

Recommendation:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 651-B:11, I as inserted by section 13 of the bill by replacing it with the following:

I. A sexual offender or offender against children shall pay a fee of \$17 at the time of the offender's initial registration and semi-annually at the time of the offender's re-registration. Of this amount, the department shall receive \$15 to be used to defray the costs of maintaining the sex offender registry. Such funds shall be nonlapsing and shall be continually appropriated to the department for such use. The municipality in which the sexual offender or offender against children registers shall keep the remaining \$2 to defray any costs associated with implementing the provisions of this paragraph.

Amend RSA 651:6, IV as inserted by section 20 of the bill by replacing it with the following:

IV. If authorized by subparagraphs I(l), (m), or (n) and if notice of the possible application of this section is given to the defendant prior to the commencement of trial:

(a) There is a presumption that a person shall be sentenced to a minimum to be fixed by the court of not less than 25 years and a maximum of life imprisonment unless the court makes a determination that the goals of deterrence, rehabilitation, and punishment would not be served, based on the specific circumstances of the case, by such a sentence and the court makes specific written findings in support of the lesser sentence. Before the court can determine whether the presumption has been overcome, the court shall consider, but is not limited to, the following factors:

- (1) Age of victim at time of offense.
- (2) Age of the defendant at the time of the offense.
- (3) Relationship between defendant and victim.
- (4) Injuries to victim.
- (5) Use of force, fear, threats, or coercion to the victim or another.
- (6) Length of time defendant offended against victim.
- (7) Number of times defendant offended against victim.
- (8) Number of other victims.
- (9) Acceptance of responsibility by defendant.
- (10) Defendant's criminal history.
- (11) Use of a weapon.
- (12) Medical or psychological condition of the victim at the time of the assault.

(b) The sentence shall also include, in addition to any other penalties provided by law, a special sentence of lifetime supervision by the department of corrections. The defendant shall comply with the conditions of lifetime supervision which are imposed by the court or the department of corrections. Violation of any of the conditions of lifetime supervision shall be deemed contempt of court. The special sentence of

lifetime supervision shall begin upon the offender's release from incarceration, parole, or probation. A defendant who is sentenced to lifetime supervision pursuant to this paragraph shall not be eligible for release from the lifetime supervision pursuant to RSA 632-A:10-a, V(b).

(c) Any decision by the superior court under paragraph (a) may be reviewed by the sentence review division of the superior court at the request of the defendant or at the request of the state pursuant to RSA 651:58.

Amend RSA 135-E:10 as inserted by section 21 of the bill by replacing it with the following:

135-E:10 Rules of Procedure and Evidence. In all civil commitment proceedings for sexually violent predators under this chapter:

I. The rules of evidence, the doctor-patient privilege under RSA 329:26, privileged communications pursuant to RSA 330-A:32, or other similar statutes or rules shall not apply in proceedings under this chapter.

II. The court may consider evidence of the person's prior conduct if such evidence is relevant to the issue of whether the person is a sexually violent predator.

III. Reports by a member of the multidisciplinary team or reports provided on behalf of the multidisciplinary team shall be inadmissible in proceedings under this chapter unless the court finds the report's probative value substantially outweighs its prejudicial effect.

IV. Notwithstanding the general inapplicability of the rules of evidence, hearsay evidence is not admissible unless it falls within one of the recognized exceptions to the hearsay rule or unless the court finds that the hearsay evidence contains circumstantial guarantees of trustworthiness and the declarant is unavailable to testify at the civil commitment proceedings. Hearsay evidence shall not be used as the sole basis for committing a person under this chapter.

The signatures below attest to the authenticity of this Report on HB 1692-FN, an act establishing the New Hampshire sexual predators act.

*Conferees on the Part  
of the Senate*

Sen. Gatsas, Dist. 16  
Sen. Clegg, Dist. 14  
Sen. Foster, Dist. 13

*Conferees on the Part  
of the House*

Rep. Dowling, Rock. 5  
Rep. Tholl, Coos 2  
Rep. Welch, Rock. 8  
Rep. Knowles, Straf. 6

SENATOR FOSTER: Thank you, Mr. President. As the prime Senate sponsor of this piece of legislation, I do want to state that I'm very much in favor of the compromise that this Committee of Conference came up with. I was glad that myself, working with the Attorney General, as well as others, was able to come up with it. The bill will do what we all hoped it was intended to do, which is to put those who prey on our children away for a very, very long time. What we learned in the Committee of Conference is that all of us do agree with that general notion. The only real disagreement was what involvement would the judicial system with meting out those sentences. And what this bill does is it creates a presumption that those who commit crimes against our kids will go away for twenty-five years to life, and if the judge, for whatever reason, is going to deviate from that, he's to look at some factors and put his or her decision in writing, and if the prosecutors aren't happy with that, they have an ability to appeal that decision. I'm confident that the factors that are laid out in this bill, and the direction that our legislature



is going to give to the courts, will mean that, except in the rarest of circumstances, these sentences will be given out. It's a vast improvement over our current law, which is ten to twenty years; this is twenty-five years to life. It's a tough bill, it remains a tough bill, and I hope that we can all vote on it today, and send a very strong message about our support for it.

SENATOR BARNES: Thank you, Mr. President. Senator Foster, you just mentioned the fact that Joe Judge gives a five-year sentence to some child molester, he has to put it in writing. Then the prosecutor has the opportunity to do what?

SENATOR FOSTER: There is an ability to go through sentence review, which I believe is a three judge panel, and they would look at it and see whether that decision was appropriate. What this legislation does is it has various factors so that not only can it be reviewed, it can be reviewed in context of those factors. The factors are laid out, they're really specific. I think the Attorney General's Office has done a good job laying those out. I feel very confident that, if the sentence was way out of whack, there'd be very good grounds to reverse that decision.

SENATOR BARNES: Thank you, Senator. And to just make a comment. I had some problems with not being tougher, as you probably know. I talked to the General up there a few days, I ran into her. The General told me that this is much better than what we have, so I'm going to vote for it.

SENATOR FOSTER: Thank you.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I applaud the work of the Committee of Conference on this piece of legislation. I was opposed to the legislation, voted against it here in the Senate, because I didn't think all of the ingredients in place were there. This Committee of Conference did a magnificent job bringing everything together, and I think producing a bill that's good for the state of New Hampshire, it's good for the system, and it restores that public confidence that we're going to be tough on people, but we're also going to have proper decisions made, and I think that's a key ingredient. That's a very key ingredient. The work of Senator Foster, Senator Clegg, Senator Gatsas on the Committee, I think greatly appreciated the work on the part of the Attorney General. Again, greatly appreciated. It's a situation where we brought all components of government together, and took something and made it better. We all should be proud of that; that's what we're here for. Thank you, Mr. President.

**The question is on adoption of the Committee of Conference Report.**

**A roll call was requested by Senator Estabrook.**

**Seconded by Senator Larsen.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Burling, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro, Estabrook, Morse, Hassan, Fuller Clark.**

**The following Senators voted No: None.**

**Yeas: 24 - Nays: 0**

**Adopted.**

**May 19, 2006**  
**2006-2349-CofC**  
**05/10**

Committee of Conference Report on HB 1697-FN, an act relative to certain state salaries.

**Recommendation:**

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 12 with the following:

12 New Section; Department of Safety; Director of Homeland Security and Emergency Management. Amend RSA 21-P by inserting after section 5 the following new section:

21-P:5-a Director of Homeland Security and Emergency Management.

I. Notwithstanding the provisions of RSA 21-G and RSA 21-P:3, the commissioner, after consultation with the governor, shall nominate for appointment by the governor and council, a director of homeland security and emergency management, who shall serve at the pleasure of the governor. The director of homeland security and emergency management shall be qualified by education and experience and shall receive the salary provided in RSA 94:1-a.

II. The director of homeland security and emergency management, under the supervision of the commissioner and the governor, shall devote full time and attention to overseeing the state level planning, preparation, exercise, response to and mitigation of terrorist threats and incidents and natural and human-caused disasters. He or she shall serve as the state's primary contact with the federal department of homeland security, and shall have authority to oversee and coordinate planning, response, and recovery efforts of all state agencies to terrorist events and natural and human-caused disasters and wide scale threats to public safety. He or she shall collaborate with the department of health and human services and shall coordinate the efforts of other state agencies in preventing and responding to epidemics and other significant threats to the public health. All state agencies shall and are authorized to cooperate with the director in carrying out his or her duties as enumerated in this section.

III. The director of homeland security and emergency management shall be eligible to be a group II member if he or she was a group II retirement beneficiary or member prior to his or her appointment.

IV. The director of homeland security and emergency management shall keep the president of the senate and speaker of the house of representatives or their designees promptly informed of any impending or actual emergencies that require coordinated action with the legislative branch.

Amend the bill by replacing sections 15 and 16 with the following:

15 Appropriation. The sum of \$171,204 is hereby appropriated to the department of safety, for the fiscal year ending June 30, 2007, to support the establishment of the position of director of homeland security and emergency management. The governor is authorized to draw a warrant for such amount out of any money in the treasury not otherwise appropriated. Such amount shall be in addition to any other funds appropriated to the department and shall be expended as follows:

Salary, director of homeland security and emergency management	\$94,584
Current expense	1,500
Equipment	30,000
Benefits	41,620
In-state travel	2,500
Out-of-state travel	1,000

16 New Paragraph; Classified Employees; Reclassification of Positions or Increases; Appeal to Joint Committee on Employee Classification. Amend RSA 21-I:56 by inserting after paragraph IV the following new paragraph:

V. Notwithstanding any other provision of law, any commissioner of a state agency may appeal a reclassification decision to the joint committee on employee classification, established in RSA 14:14-c, which shall have final authority over such decision.

Amend the bill by inserting after section 16 the following and renumbering the original sections 17-19 to read as sections 22-24, respectively:

17 New Section; Joint Committee on Employee Classification. Amend RSA 14 by inserting after section 14-b the following new section:

14:14-c Joint Committee on Employee Classification.

I. There is hereby established a joint committee on employee classification.

II. The committee shall consist of 3 members of the senate, appointed by the senate president, one of whom shall be a member of the senate finance committee, and 3 members of the house of representatives, appointed by the speaker of the house of representatives, one of whom shall be a member of the house finance committee and 2 of whom shall be members of the house committee on executive departments and administration. Members shall be appointed for their term of office. All members shall be eligible for reappointment so long as they are qualified under this section. Members shall be appointed no later than December 30 of the year of their election to the general court, except that vacancies shall be filled for an unexpired term within 30 days of the creation of such vacancy. The chairperson shall be elected by the committee members and shall rotate annually between the house and senate members, provided that a house member shall serve as the first chairperson.

III. Relative to unclassified employees:

(a) The committee shall, while the general court is in session and during the interim, review the provisions of RSA 94, including the salaries listed in RSA 94:1-a, I and shall recommend changes to salaries, position titles, or other matters related to the compensation of state officers.

(b) The committee shall establish procedures to review the allocation decisions submitted to it by the acting directors or administrative heads of state agencies or departments under RSA 94:1-d and shall set a temporary letter grade allocation for each position referred. The committee shall propose legislation recommending permanent salary levels for each position for introduction in the next regular session of the general court.

IV. Relative to classified employees, the committee shall establish procedures to hear appeals submitted by any commissioner or department head regarding reclassification decisions made by the director of personnel pursuant to RSA 21-I:54, III, and the committee's decision in such matters shall be final.

18 Compensation of State Officers; Allocation Decisions. Amend RSA 94:1-d to read as follows:

94:1-d Allocation Decisions. Each acting director or administrative head of any state agency or department shall submit his ~~[decision]~~ **or her recommendation** relative to appropriate letter grades for any new position, vacancy, upgrade or downgrade occurring in ~~[his]~~ **the** agency or department to the ~~[fiscal]~~ **commissioner of administrative services. The commissioner shall submit the recommendation to an outside consultant retained for the purpose of assessing the appropriate letter grade of unclassified state officers. The consultant shall assess the recommended allocation, recommend an alternate allocation, if necessary, and include the reasoning for such allocation in its report. The commissioner shall submit the consultant's report to the joint** committee~~;~~ established in RSA ~~[14:30-a]~~ **14:14-c**, for its review and temporary letter grade allocation.

19 Salary Adjustment; Joint Committee on Employee Classification. Amend RSA 94:3-b to read as follows:

94:3-b Salary Adjustment for Recruitment or Retention. Notwithstanding any other provisions of law to the contrary, upon the request of an appointing authority submitted to the commissioner of administrative services for review and evaluation and upon approval by the ~~[fiscal committee of the general court]~~ **joint committee on employee classification**, the governor and council is hereby authorized and empowered upon a finding by them that it is in the best interests of the state and is necessary in order to recruit and retain or recruit or retain qualified personnel to increase the salary ranges of unclassified positions.

20 New Section; Office of Legislative Services; Drafting Salary Legislation. Amend RSA 17-A by inserting after section 6 the following new section:

17-A:7 Legislation Relating to Unclassified State Officers. Legislation establishing a new, upgraded, or downgraded state unclassified officer position under RSA 94 shall to the extent practicable, be drafted by the office of legislative services without a recommended salary allocation. Changes to the salaries of unclassified officers listed in RSA 94:1-a, I shall be adopted in legislation reflecting the review and allocation approval by the joint committee on employee classification pursuant to the procedure in RSA 94:1-d and RSA 14:14-c.

21 Repeal. RSA 14:30-a, IV, relative to review by the fiscal committee of allocation decisions, is repealed.

The signatures below attest to the authenticity of this Report on HB 1697-FN, an act relative to certain state salaries.

*Conferees on the Part  
of the Senate*

Sen. Green, Dist. 6

Sen. Clegg, Dist. 14

Sen. D'Allesandro, Dist. 20

*Conferees on the Part  
of the House*

Rep. R Wheeler, Hills. 7

Rep. Stone, Rock. 1

Rep. Franklin, Sull. 2

Rep. Bergin, Hills. 6

**2006-2349-CofC**

#### AMENDED ANALYSIS

This bill:

I. Changes the effective date for the 2 percent salary increase for certain state employees from July 7, 2006 to June 16, 2006.

II. Establishes the position of director of homeland security and emergency management and adjusts the salaries of the director of emergency communications, service, and management and the assistant director of the bureau of emergency management.

III. Permits the commissioner of the department of safety to transfer the homeland security and emergency management activities of the department of safety from the division of emergency communications, services, and management to the office of the commissioner and to reorganize the divisions, responsibilities, and activities of the department.

IV. Directs the commissioner of administrative services to retain a consultant to study the unclassified salary schedule.

V. Establishes the joint committee on employee classification and authorizes the committee to make the final decision regarding reclassification of certain state employees.

VI. Provides that the board of barbering, cosmetology, and esthetics has sole authority to regulate apprentices registered with the board and allows the board to consider the professional character of an applicant for apprenticeship.

**Adopted.**

**May 19, 2006**  
**2006-2368-CofC**  
**01/09**

Committee of Conference Report on HB 1710-FN-A, an act relative to appropriations to the department of health and human services for home care providers and community mental centers and making an appropriation to increase the hourly rate of pay for direct care providers for persons with developmental and acquired disabilities and extending the provision of supplemental pharmacy assistance.

**Recommendation:**

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

The signatures below attest to the authenticity of this Report on HB 1710-FN-A, an act relative to appropriations to the department of health and human services for home care providers and community mental centers and making an appropriation to increase the hourly rate of pay for direct care providers for persons with developmental and acquired disabilities and extending the provision of supplemental pharmacy assistance.

*Conferees on the Part  
of the Senate*

Sen. Morse, Dist. 22  
 Sen. Gatsas, Dist. 16  
 Sen. D'Allesandro, Dist. 20

*Conferees on the Part  
of the House*

Rep. Hager, Merr. 12  
 Rep. Wendelboe, Belk. 1  
 Rep. Nordgren, Graf. 9  
 Rep. Mackay, Merr. 11

**SENATOR MARTEL:** Thank you very much, Mr. President. I want to thank members of the Committee of Conference from both the Senate and the House for the fine work they did in bringing this bill forward. This legislation's been long waiting for us to increase the pay for those who take of those people who need it the most, and especially when it's done in their homes where state dollars and federal dollars are saved. I thank you very much, and I thank them very much, I should say, for voting for this, and agreeing on a Committee of Conference. I urge my fellow Senators to please pass this bill. It's very important. I thank you, Mr. President.

SENATOR LARSEN: Here again, I think we have a bill which we all recognize funds the increased energy costs and fuel costs for home care providers, but we have to recognize that we are, in fact, leaving out significant other providers, who serve meals on wheels, who are in community mental health centers across the state, and they, too, have seen dramatic increases in fuel costs, but have not seen an increase. I would only point out that, in the back of the budget, there is a footnote, and if you look at that footnote carefully, it says that the Commissioner of Health and Human Services can use moneys that he's found in his own budget to fund direct care provider rates and costs at an adequate level. As we were in House Bill 1710's Conference Committee, which I was just able to sit in on at times, there was a discussion that some of the moneys that Commissioner Stephen has, it may be possible to shift what might be remainder into provider rate increases and provider energy costs. If that is the case, we would certainly, many of us, I think, would encourage the Commissioner of Health and Human Services to address this very severe need that all of us who are paying our increased mileage cost recognize affects those who are working on those most vulnerable in this state. Thanks.

**Adopted.**

**May 17, 2006**

**2006-2313-CofC**

**05/10**

Committee of Conference Report on HB 1720-FN, an act relative to notice of parent liability in CHINS proceedings.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 169-D:5, I as inserted by section 1 of the bill by replacing it with the following:

I. A petition alleging a child is in need of services may be filed by a parent, legal guardian or custodian, school official, or law enforcement officer with a judge or clerk of the court in the judicial district in which the child is found or resides. The petition shall be in writing and verified under oath. ***The following notice shall be printed on the front of the petition in bold red ink in no smaller than 14 point font size: "See back for important information and financial obligations." The back of the petition shall include a notice of liability for parents and other individuals chargeable by law for the child's support and necessities.***

Amend the bill by inserting after section 3 the following and renumbering the original section 4 to read as section 6:

4 Delinquent Children; Petition; Notice of Liability. Amend RSA 169-B:6, I to read as follows:

I. Any person may file a petition, alleging the delinquency of a minor, with a judge or clerk of the court in the judicial district in which the minor is found or resides or where the offense is alleged to have occurred. The petition shall be in writing and verified under oath. ***The following notice shall be printed on the front of the petition in bold red ink in no smaller than 14 point font size: "See back for important information and financial obligations." The back of the petition shall include a notice of liability for parents and other individuals chargeable by law for the child's support and necessities.***

5 Delinquent Children; Summons; Notice of Liability. Amend RSA 169-B:7, III to read as follows:

III. The summons shall contain a notice of the right to representation by counsel and the available procedures for obtaining counsel. The summons shall also state as follows: “**Pursuant to RSA 169-B:40**, parents and other individuals chargeable by law for the minor’s support and necessities may be liable for expenses incurred in this proceeding including the costs of certain evaluations and placements. RSA 186-C regarding educationally disabled children grants minors and their parents certain rights to services from school districts at public expense and to appeal school district decisions regarding services to be provided.”

The signatures below attest to the authenticity of this Report on HB 1720-FN, an act relative to notice of parent liability in CHINS proceedings.

*Conferees on the Part  
of the Senate*

Sen. Letourneau, Dist. 19  
Sen. Roberge, Dist. 9  
Sen. Foster, Dist. 13

*Conferees on the Part  
of the House*

Rep. Bickford, Straf. 3  
Rep. Foote, Ches. 6  
Rep. Flockhart, Rock. 13  
Rep. Walz, Merr. 13

## 2006-2278-CofC

### AMENDED ANALYSIS

This bill establishes additional notice requirements relative to potential liability in delinquency and CHINS proceedings. The bill also requires the court, in CHINS proceedings, to provide both parents, as well as any other person who may be liable for expenses incurred on behalf of the child, with a copy of the CHINS petition and notice of liability.

### Adopted.

**May 17, 2006**  
**2283-CofC**  
**09/01**

Committee of Conference Report on HB 1724-FN, an act relative to compensation and benefits for reserve and national guard members who are state employees.

### Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House each pass the bill as amended by the Senate.

The signatures below attest to the authenticity of this Report on HB 1724-FN, an act relative to compensation and benefits for reserve and national guard members who are state employees.

*Conferees on the Part  
of the Senate*

Sen. Barnes, Dist. 17  
Sen. Kenney, Dist. 3  
Sen. Larsen, Dist. 15

*Conferees on the Part  
of the House*

Rep. Stone, Rock. 1  
Rep. R. Wheeler, Hills. 7  
Rep. Graham, Hills. 18  
Rep. Franklin, Sull. 2

SENATOR KENNEY: Thank you, Mr. President. I just wanted to make mention that House Bill 1724 is an extremely important piece of legislation for the Reserve and Guard community. As you know, the Guard and the Reserve community is deployed quite frequently these days, and if they happen to be a state employee, this particular legislation, if the

lower pay is with the federal service, that the state salary portion, that difference would be paid. It also would guarantee their medical and dental benefits, or if the federal offers the dental and medical, then it would revert to that. It also continues the retirement system, so that they would receive that benefit. Lastly, it also improves the new armory system that is going in place for renovations disposals of land acquisition. That's going to keep the Guard in line with the new modernization and transformation program that's going on in this state, and many states around the country. For the Reserve and the Guard community, this is a very important piece of legislation, and I just want to thank the legislature for supporting this particular legislation. Thank you, Mr. President.

**Adopted.**

**May 18, 2006**

**2006-2315-CofC**

**08/09**

Committee of Conference Report on HB 1744-FN-A, an act authorizing the pari-mutuel commission to regulate games of chance conducted by charitable organizations and relative to tournaments conducted by charitable organizations where chips have no monetary face value.

Recommendation:

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 287-D:2-a, II(c) as inserted by section 8 of the bill by replacing it with the following:

***(c) The name of the financial institution with at least one branch in New Hampshire and the corresponding bank account number for the account in which money from the game of chance will be deposited and withdrawn.***

Amend RSA 287-D:2-a, IV as inserted by section 8 of the bill by replacing it with the following:

IV. Applications shall be received by the ~~[chief of police and attorney general]~~ ***pari-mutuel commission*** 60 days ~~[prior to]~~ ***before*** the first game date of ~~[each month]~~ ***the year***. This requirement may be waived by the ~~[attorney general]~~ ***pari-mutuel commission*** for good cause shown.

Amend RSA 287-D:2-a, VII(e) as inserted by section 8 of the bill by replacing it with the following:

***(e) Maintain an account at a financial institution with at least one branch in New Hampshire solely in the name of the charitable organization in which the money from games of chance shall be deposited and withdrawn.***

Amend RSA 287-D:2-b, VIII as inserted by section 10 of the bill by replacing it with the following:

VIII. The charitable organization shall deposit cash and proceeds from a game of chance into the account required by RSA 287-D:2-a, VII(e). All expenses, including prizes of more than \$500, game operator fees, and equipment and hall rental fees shall be paid by check from the account required by RSA 287-D:2-a, VII(e). The treasurer of the charitable organization shall document all prizes awarded as prescribed in rules adopted by the pari-mutuel commission.



Amend RSA 287-D:2-b, XI as inserted by section 10 of the bill by replacing it with the following:

XI. For games of chance where chips have no monetary face value, the charitable organization may offer any number of games per licensed event in which each player may spend up to \$150 per game including buy-ins and re-buys.

XII. Notwithstanding paragraph XI, the charitable organization may offer one game per licensed event in which each player may spend up to \$250 for the game including buy-ins and re-buys.

XIII. At least 45 days prior to each game date, the charitable organization shall submit the date and location of the game of chance, if this information has not already been submitted to the pari-mutuel commission pursuant to subparagraph II(a).

Amend RSA 287-D:2-c, IV as inserted by section 11 of the bill by replacing it with the following:

IV. Applications shall be received by the pari-mutuel commission at least 60 days before the first game date of the year. The requirement may be waived by the pari-mutuel commission for good cause shown.

Amend RSA 287-D:3, VIII as inserted by section 12 of the bill by replacing it with the following:

VIII. The charitable organization shall retain no less than 35 percent of the gross revenues from any game of chance minus any prizes paid on any game date in which game operators licensed under RSA 287-D:2-c are involved in any capacity. Such revenues shall be used by the organization to advance its charitable purpose.

Amend the bill by replacing section 17 with the following:

17 Effective Date. This act shall take effect 30 days after its passage.

The signatures below attest to the authenticity of this Report on HB 1744-FN-A, an act authorizing the pari-mutuel commission to regulate games of chance conducted by charitable organizations and relative to tournaments conducted by charitable organizations where chips have no monetary face value.

*Conferees on the Part  
of the Senate*

Sen. Martel, Dist. 18

Sen. Odell, Dist. 8

Sen. D'Allesandro, Dist. 20

*Conferees on the Part  
of the House*

Rep. Fitzgerald, Belk. 4

Rep. Manney, Hills. 7

Rep. F Sullivan, Hills. 12

Rep. Velez, Hills. 12

**Adopted.**

**May 19, 2006**

**2006-2370-CofC**

**06/09**

Committee of Conference Report on HB 1752, an act requiring notice regarding the classifications of employee and independent contractor.

Recommendation:

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 3 with the following:

3 New Paragraphs; Independent Contractor. Amend RSA 275:4 by inserting after paragraph II the following new paragraphs:

III. The factors set forth in subparagraphs II(a)-(k) shall be considered on a case by case basis, weighing all of the incidents of a given relationship and no one factor shall be outcome determinative. The greater the number of criteria in subparagraphs II(a)-(k) that exist in a given case, the more likely the individual will be deemed an independent contractor.

IV. Prima facie evidence that the criteria prescribed in subparagraphs II(a)-(k) have been met may be established by a written agreement, as set forth below, when signed by the employer and the person providing services, on or about the date such person was engaged, which describes the services to be performed and affirms that such services are to be performed in accordance with at least 7 of the criteria, 5 of which shall be subparagraphs II(a)-(e). Nothing in this paragraph shall require such an agreement to establish that the criteria have been met. Prima facie evidence that the criteria prescribed in subparagraphs II(a)-(k) have been met may also be established by a person's representations about his or her self-employed status to the United States Internal Revenue Service or other local, state, or federal agencies. If the commissioner finds that the employer's use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of at least \$1,000 but not more than \$2,500 on the employer. All funds collected under this paragraph shall be paid over to the state treasury for deposit into the general fund.

#### State of New Hampshire Department of Labor

#### VERIFICATION OF INDEPENDENT CONTRACTOR STATUS

To Be Completed By Independent Contractor At Time of Agreement to Provide Services

Name of Independent

Contractor: \_\_\_\_\_

Federal Employer Tax ID. # \_\_\_\_\_

Or Social Security Number: \_\_\_\_\_

Brief Description of

Service(s) you are Providing: \_\_\_\_\_

Service(s) Are Being Provided

To: Name and Address Of

Business/Entity \_\_\_\_\_

Check all statements that describe your agreement with the business or entity to whom you are providing services:

\_\_\_\_ (a) I have a federal employer tax identification number or social security number as listed above.

\_\_\_\_ (b) I have control and discretion over the means and manner of performance and I am not directed or supervised by the business or entity.

\_\_\_\_ (c) The time of performance is not dictated to me; or the business or entity and I have reached an agreement as to some or all of the following: completion schedules, range of work hours, maximum number of hours to be worked, and in the case of entertainment, the time such entertainment is to be provided.

\_\_\_\_ (d) I hire and pay assistants, if any, and supervise the details of the assistants' work, if those assistants are my employees.

\_\_\_\_ (e) I am in business for myself.

\_\_\_\_ (f) The success or failure of my business depends upon the relationship of receipts to expenditures.

- \_\_\_\_ (g) I have continuing or recurring business liabilities or obligations.
- \_\_\_\_ (h) I am responsible for the expenses related to the service or work performed.
- \_\_\_\_ (i) I am responsible for the satisfactory completion of the work and may be contractually responsible for failure to complete the work.
- \_\_\_\_ (j) I supply the principal tools/equipment used in the work, with the exception of tools/equipment that are unique to the business or entity's special requirements or are located on the business or entity's premises/work site.
- \_\_\_\_ (k) I am free to perform services for other businesses/individuals.

IF AT LEAST 7 OF THE LISTED CRITERIA, (5 OF WHICH MUST BE (a)-(e)) ARE CHECKED, PLEASE CONTINUE FILLING OUT THIS FORM.

IF NOT, YOU ARE NOT PROPERLY CLASSIFIED AS AN INDEPENDENT CONTRACTOR.

I certify that I have completed this verification of independent contractor form knowingly and voluntarily and without duress or undue influence. I further certify as follows:

I understand that I am an independent contractor and not an employee of \_\_\_\_\_ (print name of business or entity). I understand that I am responsible to pay applicable state and federal taxes related to the payments I receive for the services provided hereunder.

I understand that as an independent contractor, I may be responsible for purchasing my own workers' compensation insurance policy. As an independent contractor I am not eligible to receive workers' compensation insurance coverage or benefits from \_\_\_\_\_ (print name of business or entity) or their workers' compensation insurance carrier.

I understand that as an independent contractor I am not an "employee" as defined under RSA 275:4, II; RSA 275:42, II; RSA 275-E:1, I; RSA 279:1, X; or RSA 281-A:2, VI(b)(1) and therefore I am not protected by/covered under state laws regarding procuring of employment, imposition of conditions, the payment of wages, minimum wage and overtime, whistleblowers' protection, or workers' compensation.

I hereby swear and acknowledge that the statements and representations made in this verification of independent contractor status are true and accurate and have been made by me knowingly and voluntarily and without duress or undue influence.

\_\_\_\_\_  
Signature of Independent Contractor

\_\_\_\_\_  
Signature of Business/Entity

\_\_\_\_\_  
Print Name of Independent Contractor

\_\_\_\_\_  
Print Name of Business/Entity

\_\_\_\_\_  
Date Fed ID # or Soc. Sec. #

\_\_\_\_\_  
Date Fed ID # or Soc. Sec. #

In accordance with New Hampshire law: "If the commissioner finds that the employer's use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of at least \$1,000 but not more than \$2,500 on the employer."

V. Copies of the agreement in paragraph IV shall be filled out in triplicate; one copy shall be filed with the department of labor, one copy shall be retained by the contractor, and one copy shall be retained by the business entity.

VI. Proceedings and records of the department of labor with respect to agreements filed pursuant to paragraph V shall be exempt from RSA 91-A. Nothing in this section shall prohibit the department of labor from releasing information to the parties to the agreement, their legal representatives, attorneys, health care providers, or workers' compensation insurers, the attorneys for the parties' insurers, or state and federal agencies with relevant jurisdiction. Notwithstanding the provisions of this section, information relating to a filed agreement may not be released to any other person or entity without the prior written permission of a party to the agreement.

Amend the bill by replacing section 5 with the following:

5 New Paragraphs; Independent Contractor. Amend RSA 275:42 by inserting after paragraph II the following new paragraphs:

II-a. The factors set forth in subparagraphs II(a)-(k) shall be considered on a case by case basis, weighing all of the incidents of a given relationship and no one factor shall be outcome determinative. The greater the number of criteria in subparagraphs II(a)-(k) that exist in a given case, the more likely the individual will be deemed an independent contractor.

II-b. Prima facie evidence that the criteria prescribed in subparagraphs II(a)-(k) have been met may be established by a written agreement, as set forth below when signed by the employer and the person providing services, on or about the date such person was engaged, which describes the services to be performed and affirms that such services are to be performed in accordance with at least 7 of the criteria, 5 of which shall be subparagraphs II(a)-(e). Nothing in this paragraph shall require such an agreement to establish that the criteria have been met. Prima facie evidence that the criteria prescribed in subparagraphs II(a)-(k) have been met may also be established by a person's representations about his or her self-employed status to the United States Internal Revenue Service or other local, state, or federal agencies. If the commissioner finds that the employer's use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of at least \$1,000 but not more than \$2,500 on the employer. All funds collected under this paragraph shall be paid over to the state treasury for deposit into the general fund.

State of New Hampshire Department of Labor

### VERIFICATION OF INDEPENDENT CONTRACTOR STATUS

To Be Completed By Independent Contractor At Time of Agreement to Provide Services

Name of Independent

Contractor: \_\_\_\_\_

Federal Employer Tax ID. #

Or Social Security Number: \_\_\_\_\_

Brief Description of

Service(s) you are Providing: \_\_\_\_\_

Service(s) Are Being Provided

To: Name and Address Of

Business/Entity \_\_\_\_\_

Check all statements that describe your agreement with the business or entity to whom you are providing services:

\_\_\_\_ (a) I have a federal employer tax identification number or social security number as listed above.

\_\_\_\_ (b) I have control and discretion over the means and manner of performance and I am not directed or supervised by the business or entity.

\_\_\_\_ (c) The time of performance is not dictated to me; or the business or entity and I have reached an agreement as to some or all of the following: completion schedules, range of work hours, maximum number of hours to be worked, and in the case of entertainment, the time such entertainment is to be provided.

\_\_\_\_ (d) I hire and pay assistants, if any, and supervise the details of the assistants' work, if those assistants are my employees.

\_\_\_\_ (e) I am in business for myself.

\_\_\_\_ (f) The success or failure of my business depends upon the relationship of receipts to expenditures.

\_\_\_\_ (g) I have continuing or recurring business liabilities or obligations.

\_\_\_\_ (h) I am responsible for the expenses related to the service or work performed.

\_\_\_\_ (i) I am responsible for the satisfactory completion of the work and may be contractually responsible for failure to complete the work.

\_\_\_\_ (j) I supply the principal tools/equipment used in the work, with the exception of tools/equipment that are unique to the business or entity's special requirements or are located on the business or entity's premises/work site.

\_\_\_\_ (k) I am free to perform services for other businesses/individuals.

**IF AT LEAST 7 OF THE LISTED CRITERIA, (5 OF WHICH MUST BE (a)-(e)) ARE CHECKED, PLEASE CONTINUE FILLING OUT THIS FORM.**

**IF NOT, YOU ARE NOT PROPERLY CLASSIFIED AS AN INDEPENDENT CONTRACTOR.**

I certify that I have completed this verification of independent contractor form knowingly and voluntarily and without duress or undue influence. I further certify as follows:

I understand that I am an independent contractor and not an employee of \_\_\_\_\_ (print name of business or entity). I understand that I am responsible to pay applicable state and federal taxes related to the payments I receive for the services provided hereunder.

I understand that as an independent contractor, I may be responsible for purchasing my own workers' compensation insurance policy. As an independent contractor I am not eligible to receive workers' compensation insurance coverage or benefits from \_\_\_\_\_ (print name of business or entity) or their workers' compensation insurance carrier.

I understand that as an independent contractor I am not an "employee" as defined under RSA 275:4, II; RSA 275:42, II; RSA 275-E:1, I; RSA 279:1, X; or RSA 281-A:2, VI(b)(1) and therefore I am not protected by/covered under state laws regarding procuring of employment, imposition of conditions, the payment of wages, minimum wage and overtime, whistleblowers' protection, or workers' compensation.

I hereby swear and acknowledge that the statements and representations made in this verification of independent contractor status are true and accurate and have been made by me knowingly and voluntarily and without duress or undue influence.

Signature of Independent Contractor	Signature of Business/Entity
Print Name of Independent Contractor	Print Name of Business/Entity
Date	Fed ID # or Soc. Sec. #
Date	Fed ID # or Soc. Sec. #

In accordance with New Hampshire law: "If the commissioner finds that the employer's use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of at least \$1,000 but not more than \$2,500 on the employer."

II-c. Copies of the agreement in paragraph II-b shall be filled out in triplicate; one copy shall be filed with the department of labor, one copy shall be retained by the contractor, and one copy shall be retained by the business entity.

II-d. Proceedings and records of the department of labor with respect to agreements filed pursuant to paragraph II-c shall be exempt from RSA 91-A. Nothing in this section shall prohibit the department of labor from releasing information to the parties to the agreement, their legal representatives, attorneys, health care providers, or workers' compensation insurers, the attorneys for the parties' insurers, or state and federal agencies with relevant jurisdiction. Notwithstanding the provisions of this section, information relating to a filed agreement may not be released to any other person or entity without the prior written permission of a party to the agreement.

Amend the bill by replacing section 7 with the following:

7 New Paragraphs; Independent Contractor. Amend RSA 275-E:1 by inserting after paragraph I the following new paragraphs:

I-a. The factors set forth in subparagraphs I(a)-(k) shall be considered on a case by case basis, weighing all of the incidents of a given relationship and no one factor shall be outcome determinative. The greater the number of criteria in subparagraphs I(a)-(k) that exist in a given case, the more likely the individual will be deemed an independent contractor.

I-b. Prima facie evidence that the criteria prescribed in subparagraphs I(a)-(k) have been met may be established by a written agreement, as set forth below when signed by the employer and the person providing services, on or about the date such person was engaged, which describes the services to be performed and affirms that such services are to be performed in accordance with at least 7 of the criteria, 5 of which shall be subparagraphs I(a)-(e). Nothing in this paragraph shall require such an agreement to establish that the criteria have been met. Prima facie evidence that the criteria prescribed in subparagraphs I(a)-(k) have been met may also be established by a person's representations about his or her self-employed status to the United States Internal Revenue Service or other local, state, or federal agencies. If the commissioner finds that the employer's use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of at least \$1,000 but not more than \$2,500 on the employer. All funds collected under this paragraph shall be paid over to the state treasury for deposit into the general fund.

## State of New Hampshire Department of Labor

## VERIFICATION OF INDEPENDENT CONTRACTOR STATUS

To Be Completed By Independent Contractor At Time of Agreement to Provide Services

Name of Independent

Contractor: \_\_\_\_\_

Federal Employer Tax ID. #

Or Social Security Number: \_\_\_\_\_

Brief Description of

Service(s) you are Providing: \_\_\_\_\_

Service(s) Are Being Provided

To: Name and Address Of

Business/Entity \_\_\_\_\_

Check all statements that describe your agreement with the business or entity to whom you are providing services:

\_\_\_\_ (a) I have a federal employer tax identification number or social security number as listed above.

\_\_\_\_ (b) I have control and discretion over the means and manner of performance and I am not directed or supervised by the business or entity.

\_\_\_\_ (c) The time of performance is not dictated to me; or the business or entity and I have reached an agreement as to some or all of the following: completion schedules, range of work hours, maximum number of hours to be worked, and in the case of entertainment, the time such entertainment is to be provided.

\_\_\_\_ (d) I hire and pay assistants, if any, and supervise the details of the assistants' work, if those assistants are my employees.

\_\_\_\_ (e) I am in business for myself.

\_\_\_\_ (f) The success or failure of my business depends upon the relationship of receipts to expenditures.

\_\_\_\_ (g) I have continuing or recurring business liabilities or obligations.

\_\_\_\_ (h) I am responsible for the expenses related to the service or work performed.

\_\_\_\_ (i) I am responsible for the satisfactory completion of the work and may be contractually responsible for failure to complete the work.

\_\_\_\_ (j) I supply the principal tools/equipment used in the work, with the exception of tools/equipment that are unique to the business or entity's special requirements or are located on the business or entity's premises/work site.

\_\_\_\_ (k) I am free to perform services for other businesses/individuals.

IF AT LEAST 7 OF THE LISTED CRITERIA, (5 OF WHICH MUST BE (a)-(e)) ARE CHECKED, PLEASE CONTINUE FILLING OUT THIS FORM.

IF NOT, YOU ARE NOT PROPERLY CLASSIFIED AS AN INDEPENDENT CONTRACTOR.

I certify that I have completed this verification of independent contractor form knowingly and voluntarily and without duress or undue influence. I further certify as follows:

I understand that I am an independent contractor and not an employee of \_\_\_\_\_ (print name of business or entity). I understand that I am responsible to pay applicable state and federal taxes related to the payments I receive for the services provided hereunder.

I understand that as an independent contractor, I may be responsible for purchasing my own workers' compensation insurance policy. As an independent contractor I am not eligible to receive workers' compensation insurance coverage or benefits from \_\_\_\_\_(print name of business or entity) or their workers' compensation insurance carrier.

I understand that as an independent contractor I am not an "employee" as defined under RSA 275:4, II; RSA 275:42, II; RSA 275-E:1, I; RSA 279:1, X; or RSA 281-A:2, VI(b)(1) and therefore I am not protected by/covered under state laws regarding procuring of employment, imposition of conditions, the payment of wages, minimum wage and overtime, whistleblowers' protection, or workers' compensation.

I hereby swear and acknowledge that the statements and representations made in this verification of independent contractor status are true and accurate and have been made by me knowingly and voluntarily and without duress or undue influence.

\_\_\_\_\_  
Signature of Independent Contractor

\_\_\_\_\_  
Signature of Business/Entity

\_\_\_\_\_  
Print Name of Independent Contractor

\_\_\_\_\_  
Print Name of Business/Entity

\_\_\_\_\_  
Date Fed ID # or Soc. Sec. #

\_\_\_\_\_  
Date Fed ID # or Soc. Sec. #

In accordance with New Hampshire law: "If the commissioner finds that the employer's use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of at least \$1,000 but not more than \$2,500 on the employer."

I-c. Copies of the agreement in paragraph I-b shall be filled out in triplicate; one copy shall be filed with the department of labor, one copy shall be retained by the contractor, and one copy shall be retained by the business entity.

I-d. Proceedings and records of the department of labor with respect to agreements filed pursuant to paragraph I-c shall be exempt from RSA 91-A. Nothing in this section shall prohibit the department of labor from releasing information to the parties to the agreement, their legal representatives, attorneys, health care providers, or workers' compensation insurers, the attorneys for the parties' insurers, or state and federal agencies with relevant jurisdiction. Notwithstanding the provisions of this section, information relating to a filed agreement may not be released to any other person or entity without the prior written permission of a party to the agreement.

Amend the bill by replacing section 9 with the following:

9 New Paragraphs; Independent Contractor. Amend RSA 279:1 by inserting after paragraph X the following new paragraphs:

X-a. The factors set forth in subparagraphs X(a)-(k) shall be considered on a case by case basis, weighing all of the incidents of a given relationship and no one factor shall be outcome determinative. The greater the number of criteria in subparagraphs X(a)-(k) that exist in a given case, the more likely the individual will be deemed an independent contractor.

X-b. Prima facie evidence that the criteria prescribed in subparagraphs X(a)-(k) have been met may be established by a written agreement, as set forth below when signed by the employer and the person providing services, on or about the date such person was engaged, which



describes the services to be performed and affirms that such services are to be performed in accordance with at least 7 of the criteria, 5 of which shall be subparagraphs X(a)-(e). Nothing in this paragraph shall require such an agreement to establish that the criteria have been met. Prima facie evidence that the criteria prescribed in subparagraphs X(a)-(k) have been met may also be established by a person's representations about his or her self-employed status to the United States Internal Revenue Service or other local, state, or federal agencies. If the commissioner finds that the employer's use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of at least \$1,000 but not more than \$2,500 on the employer. All funds collected under this paragraph shall be paid over to the state treasury for deposit into the general fund.

State of New Hampshire Department of Labor

VERIFICATION OF INDEPENDENT CONTRACTOR STATUS

To Be Completed By Independent Contractor At Time of Agreement to Provide Services

Name of Independent

Contractor: \_\_\_\_\_

Federal Employer Tax ID. #

Or Social Security Number: \_\_\_\_\_

Brief Description of

Service(s) you are Providing: \_\_\_\_\_

Service(s) Are Being Provided

To: Name and Address Of

Business/Entity \_\_\_\_\_

Check all statements that describe your agreement with the business or entity to whom you are providing services:

\_\_\_\_ (a) I have a federal employer tax identification number or social security number as listed above.

\_\_\_\_ (b) I have control and discretion over the means and manner of performance and I am not directed or supervised by the business or entity.

\_\_\_\_ (c) The time of performance is not dictated to me; or the business or entity and I have reached an agreement as to some or all of the following: completion schedules, range of work hours, maximum number of hours to be worked, and in the case of entertainment, the time such entertainment is to be provided.

\_\_\_\_ (d) I hire and pay assistants, if any, and supervise the details of the assistants' work, if those assistants are my employees.

\_\_\_\_ (e) I am in business for myself.

\_\_\_\_ (f) The success or failure of my business depends upon the relationship of receipts to expenditures.

\_\_\_\_ (g) I have continuing or recurring business liabilities or obligations.

\_\_\_\_ (h) I am responsible for the expenses related to the service or work performed.

\_\_\_\_ (i) I am responsible for the satisfactory completion of the work and may be contractually responsible for failure to complete the work.

\_\_\_\_ (j) I supply the principal tools/equipment used in the work, with the exception of tools/equipment that are unique to the business or entity's special requirements or are located on the business or entity's premises/work site.

\_\_\_\_ (k) I am free to perform services for other businesses/individuals. IF AT LEAST 7 OF THE LISTED CRITERIA, (5 OF WHICH MUST BE (a)-(e)) ARE CHECKED, PLEASE CONTINUE FILLING OUT THIS FORM.

**IF NOT, YOU ARE NOT PROPERLY CLASSIFIED AS AN INDEPENDENT CONTRACTOR.**

I certify that I have completed this verification of independent contractor form knowingly and voluntarily and without duress or undue influence. I further certify as follows:

I understand that I am an independent contractor and not an employee of \_\_\_\_\_ (print name of business or entity). I understand that I am responsible to pay applicable state and federal taxes related to the payments I receive for the services provided hereunder.

I understand that as an independent contractor, I may be responsible for purchasing my own workers' compensation insurance policy. As an independent contractor I am not eligible to receive workers' compensation insurance coverage or benefits from \_\_\_\_\_ (print name of business or entity) or their workers' compensation insurance carrier.

I understand that as an independent contractor I am not an "employee" as defined under RSA 275:4, II; RSA 275:42, II; RSA 275-E:1, I; RSA 279:1, X; or RSA 281-A:2, VI(b)(1) and therefore I am not protected by/covered under state laws regarding procuring of employment, imposition of conditions, the payment of wages, minimum wage and overtime, whistleblowers' protection, or workers' compensation.

I hereby swear and acknowledge that the statements and representations made in this verification of independent contractor status are true and accurate and have been made by me knowingly and voluntarily and without duress or undue influence.

\_\_\_\_\_  
Signature of Independent Contractor

\_\_\_\_\_  
Signature of Business/Entity

\_\_\_\_\_  
Print Name of Independent Contractor

\_\_\_\_\_  
Print Name of Business/Entity

\_\_\_\_\_  
Date Fed ID # or Soc. Sec. #

\_\_\_\_\_  
Date Fed ID # or Soc. Sec. #

In accordance with New Hampshire law: "If the commissioner finds that the employer's use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of at least \$1,000 but not more than \$2,500 on the employer."

X-c. Copies of the agreement in paragraph X-b shall be filled out in triplicate; one copy shall be filed with the department of labor, one copy shall be retained by the contractor, and one copy shall be retained by the business entity.

X-d. Proceedings and records of the department of labor with respect to agreements filed pursuant to paragraph X-c shall be exempt from RSA 91-A. Nothing in this section shall prohibit the department of labor from releasing information to the parties to the agreement, their legal representatives, attorneys, health care providers, or workers' compensation insurers, the attorney for the parties' insurers, or state and federal agen-

cies with relevant jurisdiction. Notwithstanding the provisions of this section, information relating to a filed agreement may not be released to any other person or entity without the prior written permission of a party to the agreement.

Amend the bill by replacing section 11 with the following:

11 Workers' Compensation; Definition of Employee; Reference Changed. RSA 281-A:2, VI(c) is repealed and reenacted to read as follows:

(c)(1) Prima facie evidence that the criteria prescribed in RSA 281-A:2, VI(b)(1)(A)(i)-(xi) have been met may be established by a written agreement as set forth below when signed by the employer and the person providing services, on or about the date such person was engaged, which describes the services to be performed and affirms that such services are to be performed in accordance with at least 7 of the criteria, 5 of which shall be subparagraphs VI(b)(1)(A)(i)-(v). Nothing in this paragraph shall require such an agreement to establish that the criteria have been met. Prima facie evidence that the criteria prescribed in subparagraphs VI(b)(1)(A)(i)-(xi) have been met may also be established by a person's representations about his or her self-employed status to the United States Internal Revenue Service or other local, state, or federal agencies. If the commissioner finds that the employer's use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of at least \$1,000 but not more than \$2,500 on the employer. All funds collected under this paragraph shall be paid over to the state treasury for deposit into the general fund.

State of New Hampshire Department of Labor

### VERIFICATION OF INDEPENDENT CONTRACTOR STATUS

To Be Completed By Independent Contractor At Time of Agreement to Provide Services

Name of Independent

Contractor: \_\_\_\_\_

Federal Employer Tax ID. #

Or Social Security Number: \_\_\_\_\_

Brief Description of

Service(s) you are Providing: \_\_\_\_\_

Service(s) Are Being Provided

To: Name and Address Of

Business/Entity \_\_\_\_\_

Check all statements that describe your agreement with the business or entity to whom you are providing services:

\_\_\_\_ (a) I have a federal employer tax identification number or social security number as listed above.

\_\_\_\_ (b) I have control and discretion over the means and manner of performance and I am not directed or supervised by the business or entity.

\_\_\_\_ (c) The time of performance is not dictated to me; or the business or entity and I have reached an agreement as to some or all of the following: completion schedules, range of work hours, maximum number of hours to be worked, and in the case of entertainment, the time such entertainment is to be provided.

\_\_\_\_ (d) I hire and pay assistants, if any, and supervise the details of the assistants' work, if those assistants are my employees.

- \_\_\_\_ (e) I am in business for myself.  
 \_\_\_\_ (f) The success or failure of my business depends upon the relationship of receipts to expenditures.  
 \_\_\_\_ (g) I have continuing or recurring business liabilities or obligations.  
 \_\_\_\_ (h) I am responsible for the expenses related to the service or work performed.

\_\_\_\_ (i) I am responsible for the satisfactory completion of the work and may be contractually responsible for failure to complete the work.

\_\_\_\_ (j) I supply the principal tools/equipment used in the work, with the exception of tools/equipment that are unique to the business or entity's special requirements or are located on the business or entity's premises/work site.

\_\_\_\_ (k) I am free to perform services for other businesses/individuals.

**IF AT LEAST 7 OF THE LISTED CRITERIA, (5 OF WHICH MUST BE (a)-(e)) ARE CHECKED, PLEASE CONTINUE FILLING OUT THIS FORM.**

**IF NOT, YOU ARE NOT PROPERLY CLASSIFIED AS AN INDEPENDENT CONTRACTOR.**

I certify that I have completed this verification of independent contractor form knowingly and voluntarily and without duress or undue influence. I further certify as follows:

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I understand that as an independent contractor, I may be responsible for purchasing my own workers' compensation insurance policy. As an independent contractor I am not eligible to receive workers' compensation insurance coverage or benefits from \_\_\_\_\_ (print name of business or entity) or their workers' compensation insurance carrier.

I understand that as an independent contractor I am not an "employee" as defined under RSA 275:4, II; RSA 275:42, II; RSA 275-E:1, I; RSA 279:1, X; or RSA 281-A:2, VI(b)(1) and therefore I am not protected by/covered under state laws regarding procuring of employment, imposition of conditions, the payment of wages, minimum wage and overtime, whistleblowers' protection, or workers' compensation.

I hereby swear and acknowledge that the statements and representations made in this verification of independent contractor status are true and accurate and have been made by me knowingly and voluntarily and without duress or undue influence.

\_\_\_\_\_  
Signature of Independent Contractor

\_\_\_\_\_  
Signature of Business/Entity

\_\_\_\_\_  
Print Name of Independent Contractor

\_\_\_\_\_  
Print Name of Business/Entity

\_\_\_\_\_  
Date Fed ID # or Soc. Sec. #

\_\_\_\_\_  
Date Fed ID # or Soc. Sec. #

In accordance with New Hampshire law: "If the commissioner finds that the employer's use of such written agreement was intended to misrepresent the relationship between the employer and the person providing services, the commissioner may assess a civil penalty of at least \$1,000 but not more than \$2,500 on the employer."

Amend the bill by inserting after section 11 the following and renumbering the original section 12 to read as 13:

12 New Subparagraphs; Workers' Compensation; Definition of Employee. Amend RSA 281-A:2, VI by inserting after subparagraph (c)(1) the following new subparagraphs:

(2) Copies of the agreement in paragraph VI(c)(1) shall be filled out in triplicate; one copy shall be filed with the department of labor, one copy shall be retained by the contractor, and one copy shall be retained by the business entity.

(3) Proceedings and records of the department of labor with respect to agreements filed pursuant to subparagraph (2) shall be exempt from RSA 91-A. Nothing in this section shall prohibit the department of labor from releasing information to the parties to the agreement, their legal representatives, attorneys, health care providers, or workers' compensation insurers, the attorneys for the parties' insurers, or state and federal agencies with relevant jurisdiction. Notwithstanding the provisions of this section, information relating to a filed agreement may not be released to any other person or entity without the prior written permission of a party to the agreement.

The signatures below attest to the authenticity of this Report on HB 1752, an act requiring notice regarding the classifications of employee and independent contractor.

*Conferees on the Part  
of the Senate*

Sen. Clegg, Dist. 14  
Sen. Barnes, Dist. 17  
Sen. Gatsas, Dist. 16

*Conferees on the Part  
of the House*

Rep. Infantine, Hills. 13  
Rep. O'Neil, Rock. 15  
Rep. Adams, Hills. 2  
Rep. H. Richardson, Coos 2

**2006-2370-CofC**

### AMENDED ANALYSIS

This bill requires that information about the classification of workers as employees or independent contractors be posted as part of the "Know Your Rights" notice in every place of employment.

SENATOR HASSAN: Thank you, Mr. President. I rise in opposition to the Committee of Conference report, and I do so as a sponsor of 1752 over in the House, and as the prime sponsor of Senate Bill 267, which ended up amended onto House Bill 1752. Both of those bills deal with a very important issue, which is the misclassification of employees as independent contractors in the workplace, and because both the House and the Senate have recognized this as a very important issue, there is a statutory study committee that has been extended, that has been looking at this issue, and both House Bill 1752 and Senate Bill 267 were the result of some of the work of that study committee. The reason I can't support House Bill 1752, as it came from the Committee of Conference, is because, while there were portions of the amended 1752 that do, in fact, show collaborative work and some creativity, there is a key portion of the bill, as it now stands, which came to it with a Senate amendment in the Senate Bill 267, that creates a form for businesses and contractors to sign indicating the contractor status as an independent contractor. Now the notion of a form in and of itself is not necessarily a bad thing, but when Senate Bill 267, with this form on it, went over to the House, the House Labor Committee, by a very large margin, appropri-

ately sent the bill to interim study so that certain questions about the use of the form could be studied further and considered. Those questions are important questions, and they're not answered by the Committee of Conference report. The form, as it's developed and proposed in this bill, will allow an employee, somebody who is an employee under the law, to incorrectly represent him or herself as an independent contractor, if pressured to do so by the business offering him or her a job. It will also allow an independent contractor, who's really an employee, to misrepresent itself to the business entity. Both parties could then leave this process of filling out this form with the false impression as to the contractor or the employee's status. The employee may go away thinking that they are an independent contractor because the business urged them to sign the form. The employer might leave an interaction believing that somebody who represented themselves as an independent contractor is in fact an independent contractor. What we know from the law is those representations are not definitive, and what it means is that somebody who's been pressured into representing themselves as an independent contractor now believes they have no recourse if they get hurt and they have no workers' compensation. Similarly, a business may think they have no obligation to somebody who's hurt on the job because the form exists and was signed. What that may very well do is drive down the amount of premiums paid into our workers' compensation system, and make workers' compensation more expensive for all of the businesses that do in fact understand and comply with the definitions of independent contractor and employee. So we need to understand better how these forms will be used. We need to have more safeguards in the form to explain to both parties that they are not definitive representations as to status; only interpretation of the law can determine that status. The other thing is that the Committee of Conference report now says that these forms will be filed with the Department of Labor, but there is no appropriation to the Department of Labor to actually enforce the proper use of these forms. So they're going to get filed with the Department of Labor, but we've had no testimony at a hearing from the Department of Labor about their capacity to actually review and enforce the forms, and in fact, the Committee of Conference report also says these forms will not be open to public inspection, which means that the DOL doesn't have staff to enforce them. They're going to sit there and no one else will be able to review them either to determine whether, in fact, they are appropriately filled out. For those reasons, many of us who supported the notion of the form, supported very much the referral of the idea of the form to interim study so we could iron out these issues, I am very concerned that passage of this bill now will create a great deal of confusion in the workplace, give employers the sense that they don't have to live up to the obligation to certain of their employees, and employees the sense that they don't have the rights they have always had to go to the Department of Labor to resolve their status, and for those reasons I would urge this body not to accept the Committee of Conference report. Thank you.

SENATOR LETOURNEAU: Thank you, Mr. President. Thank you, Senator Hassan, for taking a question. I heard you say that, first of all, my understanding was is that the bone of contention over this particular piece of legislation in the beginning, was to have a form put in, and now that the form is in there, the complaint is that it's not being made public, and I'm noticing that it has the federal employer tax ID, or social

security number, a brief description of the services provided, and the names of the persons who that service is being provided to. Wouldn't you think that this type of information should be confidential to the Department of Labor?

SENATOR HASSAN: I believe that certain information might very well be appropriate to be confidential, such as somebody's social security number. What is not clear, the form has a list of criteria that the person says they have to meet. For instance, that they determine their own work schedule, or that they're going to provide most of their own equipment, or that they have other employees. And each of those criteria is a critical relevant factor in the determination about whether somebody is in fact an independent contractor, and those are the pieces of information that we should be able to look at, whether in aggregate forms so there's no personal identifiers, or some other kind of data collection form, so that we could understand whether the forms are being used correctly, and it's exactly for that reason I wouldn't want everybody's social security number published at large to the general public, and there are actually bills in this legislature to deal with that, but we haven't answered those questions. We have a statutory study committee in place to look further at these issues, and the House wanted to study it further as well. All of that seems completely appropriate to me, given the seriousness of the issue.

SENATOR LETOURNEAU: Then wouldn't you agree that at least this is a good start place to move forward on this issue?

SENATOR HASSAN: I agree that much of the bill is a terrific start. We added criteria that would narrow the definition of an independent contractor, but we also provided flexibility in the number of criteria that need to be met, something I think the business is appropriately quite eager for. The problem is the form isn't ready for prime time, and it can do much more harm than good at the moment. I'm not objecting to the notion of a form any time in the future, but I do think that this will serve to confuse the workplace, people will underpay into the workers' comp fund, and I think those are questions that we need to address fully, and I think there are ways to do that before we take this step.

SENATOR LETOURNEAU: Thank you.

SENATOR CLEGG: Thank you, Mr. President. I was on the Committee of Conference, and obviously I was very interested in the whole process. Basically, the Senate position was upheld. When the bill came out of the Senate, it had a floor amendment. When we got to the Committee of Conference, Representative Mary Gorman said there was only one way her people could agree with this, and that was if the form was done in triplicate, one copy went to the Department of Labor, and the information was not subject to the right-to-know of the general public. So the Senate took a look at it and said, "We'll agree, so long as we can put the same caveat on, or the same law, that we did with workers' comp, and that was, it's not subject to 91:A, but we don't stop them from giving it to legal representatives, attorneys, health care providers, anybody who needs it for coverage gets to see it, the general public doesn't." Is there any money in there to put together all kinds of numbers to see how many there are, who does it? No. The Department of Labor has stated that they're fine. They'll take the forms. Next year, if they think they need more people, they need more help, they need to do something, they'll ask us for it. But this whole process was to look and see what we could do

to stop people from pretending to work for themselves, and then when they get hurt, walk into the Department of Labor and say, "I don't have any insurance. Can you stick it on the guy who I working for?" That's all it is. It's a safeguard. Suddenly you have a workers' comp insurer who wasn't paid to cover the injuries, stuck paying for the injury. Who pays for that? We do. Just like everything else. You get around the system, somebody else pays for it. It may not be perfect, but it's a darn good start. Fill out the form. There's more criteria you have to meet now, and I don't subscribe to the theory that people out there are too stupid to realize the difference between I work for you and I work for me. I don't believe that. I believe people go out there and decide to be an independent contractor. They make a lot more money because they're supposed to be covering themselves with insurance, whether it's worker's comp, health insurance, and they don't spend it on the things they were supposed to. Mr. President, we had a bill awhile back that a lobbyist put a little note on something, and felt that if they could threaten the Senate, that they might take a different position. Today a lobbyist made a threat out in the hallway to a Representative, and it was overheard by a few people, that if this bill passes, this Committee of Conference, that not only will they get the Representative, they'll also get Senator Gatsas and Senator Clegg. Threats don't bother me. Go ahead, because this is the right thing. You can threaten to take me out because I'm not agreeing with organized labor all you want. I don't appreciate doing business that way. I like to work together. When we were in that Committee of Conference, we worked together. We know whose views were brought to the table, we know whose views we agreed to, and suddenly they're not good enough. We've done what we're supposed to do. We're supposed to compromise, we're supposed to come out with something that works together, and threats don't bother me. Thank you.

SENATOR BARNES: Would you share with the rest of this body who that lobbyist was, please?

SENATOR CLEGG: I believe he's the lobbyist for the carpenters' union, and he's standing up in the back.

SENATOR BARNES: What's his name?

SENATOR CLEGG: I think it's Donahue. I don't have much contact with him, so...

SENATOR BARNES: If you run into him, would you have him put an amendment on there, would you have him add my name to you and Senator Gatsas?

SENATOR CLEGG: I will certainly do that, but I think he's up there. He can hear you.

SENATOR BARNES: I hope so.

SENATOR HASSAN: Of Senator Clegg, please. Senator Clegg, you mentioned a moment ago that it was Representative Gorman's position that the forms be done in triplicate, and not open to the public. Did Representative Gorman sign the Committee of Conference report?

SENATOR CLEGG: No. It was very unfortunate, because she brought it in, we agreed to it. She went out and had a meeting with some interested parties, and came back, evidently those interested parties thought that was a deal-breaker, when in fact, it wasn't. So, even though we agreed to everything she asked for, she had to remove herself.



SENATOR HASSAN: And a follow up question, and it's actually a follow up two questions. Would you believe that I believe that Representative Gorman knows her own mind, probably better than you do? And, would you also believe that during the entire study committee's study of this issue, not a single person came in to tell our study committee that there was a problem with independent contractors misrepresenting themselves. Instead, what we heard was, if there was a real issue of employees being told that they had to be independent contractors?

SENATOR CLEGG: Senator, that's definitely two questions, and I can tell you that I was at the Committee of Conference. We accepted the views that Representative Gorman needed in order to make this bill work for her. We saw the lobbyist she met with, immediately left, and we agreed, and we saw her come from that meeting, and say, "I'm sorry, I can no longer support my position." And I will agree with you, that there aren't as many independent contractor problems in the state as some would like us to believe, and this form will definitely prove that's the case.

SENATOR HASSAN: Thank you.

SENATOR FOSTER: Can you explain to us, I guess you're suggesting that the request for the 91:A exemption came from, I guess, laborers, what you're suggesting. Can you explain to me why they want that, or why you think that's a good idea, that not only would the...because I'm reading it, not only would the forms be exempt, but proceedings, whatever proceedings means, relating to those forms would also be exempt from the right-to-know?

SENATOR CLEGG: Why they wanted it that way is beyond me, but it works very similar to the way we've done workers' comp issues. We felt that it was a reasonable request, and we acceded to their request.

SENATOR FOSTER: Just a follow up. I recall a workers' comp, and I think the idea was in the workers' comp cases, was that we didn't want personal injury attorneys contacting, getting those records and contacting people merely because they've been injured. We felt that actually was a violation of privacy. But I'm trying to figure in this instance why the need to keep that stuff private, because what I'm seeing is forms and who's getting them, and they're being filed, and people may make conclusions about that. So...

SENATOR CLEGG: Well, there was a statement made when Representative Gorman asked for it, and one of the statements she made was that it wouldn't be fair for either side to be able to run to the Department of Labor to get information, who is and who isn't, I guess organized labor. The issue on our side, between Senator Barnes and I, was the fact that federal ID numbers and social security numbers should be kept confidential. So, until we have a method of dissecting the forms, we thought that it was prudent to do it this way. Next year, if we need to tweak, we obviously can, but in the mean time, we have something that forces people to be honest, and say either I am or I'm not an independent contractor.

SENATOR FOSTER: But I understand the concern was social security numbers.

SENATOR CLEGG: From the Senate perspective, that was one of the biggest concerns.

SENATOR FOSTER: Thank you.

SENATOR LARSEN: This bill was introduced for an entirely different effort, and that was to begin to address what has been the practice of misclassifying employees, and oftentimes that occurs in the construction industry. I rise to oppose this bill. It was recommended by the House, in fact, that this be interim studied, and that is the appropriate place for this bill to go. Clearly, there are directions we can go, but this form is not the direction. This form will require workers who will be coerced, they will be required to sign these forms in order to feed their families and make their financial ends meet. It is wrong. It is the wrong solution to what we know is a problem, and I think we need to go back and work on it. Send this bill down the tubes, and allow for a full study, either by the House, or by those who are ready to work on it again next session and do it right.

SENATOR HASSAN: Thank you, Mr. President. I just want to rise to note that some of the discussion about the form from my colleague from Hudson indicates, I think, the problem that we have. One is that it still needs tweaking, and I'm not eager to pass a bill that will affect so many people in this state that still needs tweaking when we have a study committee in place that can work on doing just that. Secondly, the discussion of the form from its supporters this morning has indicated the real problem here. The whole point, and the whole problem, with the issue of independent contractors versus employees, is a problem of form over substance. What determines whether you are an independent contractor or employee is not what you sign, and not what you call yourself. It is, in fact, what you do on that particular worksite, and what your relationship is with the particular business that's hired you, and the law has historically, and in this state, and in other states, and at the national level, looked at what employees actually do as opposed to what their employers say they do, or what the employee represents themselves as doing. And the problem with this form, is it's going to give people the impression, the way it is written, and because we have nobody at DOL to really work with it, it's going to give people the impression that they can choose whether to call themselves an independent contractor, or choose whether to tell their employees that they're independent contractors, and that's exactly the problem we've been trying to fight, and this form, the way it's currently written, is going to take us backwards and not forwards. So for those reasons, I really urge this body to vote no on this Committee of Conference report. Thank you.

SENATOR CLEGG: I'd like to clear up a misconception. I don't think there's anything wrong with this form. I was answering a question of a colleague who thought maybe there was, and I offered that maybe he could tweak it next year. I don't see any problem in this, and I also don't see any problem with having someone honestly state whether or not they believe they are an independent contractor, and I have all the faith in the world that the Department of Labor will look at these forms when the situation arises that they need to. Thank you.

**The question is on adoption of the Committee of Conference Report.**

**A roll call was requested by Senator Larsen.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**The following Senators voted No: Burling, Gottesman, Foster, Larsen, D'Allesandro, Estabrook, Hassan, Fuller Clark.**

**Yeas: 16 - Nays: 8**

**Adopted.**

This bill creates a uniform definition of employee and clarifies the criteria for exempting a worker from employee status.

**Adopted.**

**May 16, 2006  
2006-2267-CofC  
03/10**

Committee of Conference Report on HB 1758, an act classifying biodiesel as a renewable energy source.

**Recommendation:**

That the House recede from its position of nonconcurrence with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend RSA 72:74, II as inserted by section 6 of the bill by replacing it with the following:

II. A renewable generation facility subject to a voluntary agreement to make a payment in lieu of taxes under this section shall be subject to the laws governing the utility property tax under RSA 83-F. Payments made pursuant to such agreement shall satisfy any tax liability relative to the renewable generation facility that otherwise exists under RSA 72. In the absence of a payment in lieu of taxes agreement, the renewable generation facility shall be subject to taxation under RSA 72.

The signatures below attest to the authenticity of this Report on HB 1758, an act classifying biodiesel as a renewable energy source.

*Conferees on the Part  
of the Senate*

Sen. Green, Dist. 6  
Sen. Letourneau, Dist. 19  
Sen. Burling, Dist. 5

*Conferees on the Part  
of the House*

Rep. Maxfield, Merr. 6  
Rep. Slocum, Hills. 6  
Rep. Kaen, Straf. 7  
Rep. Stohl, Coos 1

**Adopted.**

**May 18, 2006  
2006-2341-CofC  
05/03**

Committee of Conference Report on HB 1761, an act relative to hold over tenants in vacation or recreational rental units.

**Recommendation:**

That the House recede from its position of nonconcurrence with the Senate amendment, and

That the Senate recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing all after section 2 with the following:

3 Lobbyists Reporting Requirements. Amend RSA 15:6, I to read as follows:

I. Each lobbyist shall file with the secretary of state itemized statements under oath of:

(a) All fees received from any lobbying client [~~for all purposes.~~

~~(b) What portion of the total fees received]~~ **that** are related, directly or indirectly, to lobbying [~~services],~~ **such as public advocacy, government relations, or public relations services including research, monitoring legislation, and related legal work.**

~~[(c)] (b)~~ All expenditures made from lobbying fees, including by whom paid or to whom charged.

~~[(d)] (c)~~ Any honorarium or expense reimbursement, as defined in RSA 15-B, or political contribution, as defined in RSA 664, made by the lobbyist in his or her professional or personal capacity, on behalf of the lobbyist, the partnership, firm, or corporation or by the lobbyist on behalf of the client or employer or by a family member of the lobbyist. The statements shall be open to public inspection. For the purposes of this chapter, "family member" shall mean any person related to and living in the same domicile as the lobbyist, who shares a common economic interest in the expenses of daily living, including, but not limited to, a spouse, child, or parents.

4 Lobbyist Reporting Requirements. Amend RSA 15:6, V(d) to read as follows:

(d) For each **lobbying** client, the full name and business address of the client, the scope of the representation or lobbyist services being paid for, the gross amount of all fees received from that client, not reduced by any expenses, [~~for all purposes, a statement of what portion of the gross fees received]~~ **that** are related, directly or indirectly, to lobbying [~~services],~~ **such as public advocacy, government relations, or public relations services including research, monitoring legislation, and related legal work,** a statement of the aggregate total of fees received that are related, directly or indirectly, to lobbying services during the calendar year, and a statement of any fee payment due, but not yet paid.

5 Effective Date.

I. Sections 1 and 2 of this act shall take effect January 1, 2007.

II. The remainder of this act shall take effect June 2, 2006, at 12:01 a.m.

The signatures below attest to the authenticity of this Report on HB 1761, an act relative to hold over tenants in vacation or recreational rental units.

*Conferees on the Part  
of the Senate*

Sen. Clegg, Dist. 14

Sen. Roberge, Dist. 9

Sen. Gottesman, Dist. 12

*Conferees on the Part  
of the House*

Rep. Whalley, Belk. 5

Rep. Dokmo, Hills. 6

Rep. O'Brien, Hills. 4

Rep. Lasky, Hills. 26

**2006-2341-CofC**

### AMENDED ANALYSIS

This bill permits a law enforcement officer to remove a holdover tenant from a vacation or recreational rental unit without judicial process if the parties have signed a lease that specifies the date by which the tenant shall vacate the premises and that the tenant may be removed from the property if the tenant remains beyond the date specified. The bill exempts vacation and recreational rental units from the eviction process in RSA 540.

This bill also limits the financial disclosure requirement for lobbyists to fees directly or indirectly related to lobbying.

**Adopted.**

**May 19, 2006**  
**2006-2364-CofC**  
**05/09**

Committee of Conference Report on HB 1767-FN-A, an act authorizing the state acquisition of real estate destroyed in the October 2005 floods, establishing a commission to determine the appropriate use of the property, and making an appropriation therefor.

**Recommendation:**

That the House recede from its position of nonconcurrency with the Senate amendment, and concur with the Senate amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 Acquisition of Real Estate Damaged or Destroyed in October 2005 Floods. Pursuant to RSA 228:31, the commissioner of the department of transportation with the advice and consent of the executive council, shall purchase, on behalf of the state, the property located in Alstead, Langdon, and Walpole that was severely damaged or destroyed in the October 2005 floods. Such property shall be purchased through the department of transportation, in accordance with state law and at the pre-flood assessed value less the total amount of financial aid that the current property owner received from any other source, such as insurance payments or state or federal disaster assistance. Nothing in this section shall require a property owner to sell his or her property.

The signatures below attest to the authenticity of this Report on HB 1767-FN-A, an act authorizing the state acquisition of real estate destroyed in the October 2005 floods, establishing a commission to determine the appropriate use of the property, and making an appropriation therefor.

*Conferees on the Part  
of the Senate*

Sen. Odell, Dist. 8  
 Sen. Morse, Dist. 22  
 Sen. Burling, Dist. 5

*Conferees on the Part  
of the House*

Rep. R. Wheeler, Hills. 7  
 Rep. Stone, Rock. 1  
 Rep. King, Coos 1  
 Rep. D. Eaton, Ches. 2

**Adopted.**

SENATOR GREEN: Thank you, Mr. President. As usual, I don't know what's going on. Right?

SENATOR GATSAS: We're just following the orders that you gave us.

SENATOR GREEN: I wanted to rise before we leave this whole issue of Committee of Conferences. There is one...

SENATOR GATSAS: Just so that you know, we do have Senate bills coming.

SENATOR GREEN: I know that. I understand that. But, the House ones are what I'm concerned with. Okay? If you look at this whole thing, there is one Committee of Conference report that isn't here. It is HB 638.

HB 638 was a bill that we tried to reach agreement with the House on the whole issue of how we resolve the relationship between the state and the counties, mostly referred to around here as the "County Bill". That bill was a very important piece of legislation. We started out trying to figure out a way to make that relationship more professional, easier to understand. You know what? To save money. How about that? Well, the end result was that we were not successful. All members of the Committee of Conference signed off except one member who refused to sign up to the last minute and did not sign, so it died. That was, in my opinion, a very, very serious misrepresentation of what was going on and it is a sad day for us as we all sit here. Those of us who looked very carefully at making sure that we do everything that we can to help offset the high cost of local property taxes 'cause you all remember, anything that happens at the county level, you see it on your local property taxes. That particular bill, as we ended up agreeing with the House, or the majority of the House members, affected \$9.4 million of dollars that would be realized either in credits or in revenue by the counties. We started out with the idea of making the system more efficient. By taking those relationships, which actually have joint responsibilities, and we looked at provider payments, we looked at skilled nursing care, we looked at claw back as it affects Medicaid and we looked at youth services. When we got through with the whole thing, we had an agreement. We thought we had an agreement. We had the Commissioner involved. We had, I believe, a split on the county level. Regardless of which counties were where, we had a split, but they have been split and fighting for the last ten years that I know of. That was not new. So, we as the legislature, decided we were going to step up to the plate and try to make this work. The final agreement was the state would take over the provider payments 100%. No more split; no more decisions. Jointly. I will tell you why that it is important. We took over all skilled care and we took over all the issues around claw back. We let the counties remain responsible partly with us on the youth services. We wanted the whole thing. We wanted youth services out of it, too. Now, I say we, I don't mean we want it, they don't want it. It is a question of who is responsible because we're spending a tremendous amount of time and energy fighting over bills. Now, I looked at the manifest on these bills. It is amazing. Some of them are 6¢, 9¢. Some are pretty good sized. We're fighting about it. Now, there is an awful lot of personnel time going into that, an awful lot of computer time going into that and a lot of disagreement. We even have a lawsuit over some of those things. Now, we gave the counties credit for those things we were fighting over - \$2.7 million. We also gave them an additional credit of \$2 million which we have been giving them every year. We also gave, in revenue, \$4.6, almost \$4.7 million to go back to the counties to offset their cost. We ended up in the situation where one person, one person in this whole legislature, stopped what the majority, a large majority of us, all felt was the right solution. You're going to be seeing this again in January, I'm sure. I would suggest to you that you do everything you can, those of us who are here next time, none of us know who is going to be, to really make that system work. I'm telling you, there is an awful lot of gnashing of teeth, an awful lot of dollars going down the drain, an awful lot of administrative time. If you want good management, you ought to really look at this for two reasons. One, it makes sense, and number two, it costs less to do it right in the first place. Thank you, Mr. President.

**May 15, 2006**  
**2006-2250-CofC**  
**08/09**

Committee of Conference Report on SB 140, an act relative to the acceptance of in-lieu payments for the restoration or creation of wetlands and the preservation of upland areas adjacent to wetland areas.

Recommendation:

That the Senate recede from its position of nonconcurrency with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

The signatures below attest to the authenticity of this Report on SB 140, an act relative to the acceptance of in-lieu payments for the restoration or creation of wetlands and the preservation of upland areas adjacent to wetland areas.

*Conferees on the Part  
of the Senate*

Sen. Johnson, Dist. 2

Sen. Gallus, Dist. 1

Sen. Burling, Dist. 5

*Conferees on the Part  
of the House*

Rep. Currier, Merr. 5

Rep. C. Christiansen, Hills. 19

Rep. Spang, Straf. 7

Rep. Sanders, Rock. 7

**Adopted.**

**May 15, 2006**  
**2006-2246-CofC**  
**01/09**

Committee of Conference Report on SB 250, an act relative to lead paint poisoning prevention.

Recommendation:

That the Senate recede from its position of nonconcurrency with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 130-A:7, V as inserted by section 4 of the bill by replacing it with the following:

V. Interim controls, as defined in this chapter, may be used as an acceptable alternative to lead hazard abatement only with the prior written approval of the commissioner and for a period not to exceed 2 years. Within that 2-year period the person subject to the order shall either take the steps necessary to eliminate or enclose the lead exposure hazards or remove the dwelling or dwelling unit from the rental market.

The signatures below attest to the authenticity of this Report on SB 250, an act relative to lead paint poisoning prevention.

*Conferees on the Part  
of the Senate*

Sen. Martel, Dist. 18

Sen. Eaton, Dist. 10

Sen. D'Allesandro, Dist. 20

*Conferees on the Part  
of the House*

Rep. Babson, Carr. 3

Rep. Olimpio, Carr. 5

Rep. Tobin, Belk. 2

Rep. Essex, Hills. 1

**Adopted.**

**May 16, 2006**  
**2006-2257-CofC**  
**01/09**

Committee of Conference Report on SB 287-FN, an act making certain changes to the eminent domain statute.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend RSA 162-K:2, IX-a(a)(3) as inserted by section 1 of the bill by replacing it with the following:

(3) The acquisition of real property to remove structures beyond repair, public nuisances, structures unfit for human habitation or use, and abandoned property when such structures or property constitute a menace to health and safety; and

Amend RSA 203:3, XIV(a)(3) as inserted by section 3 of the bill by replacing it with the following:

(3) The acquisition of real property to remove slums, as defined in RSA 203:3, VIII, structures beyond repair, public nuisances, structures unfit for human habitation or use, and abandoned property when such structures or property constitute a menace to health and safety; and

Amend RSA 205:3-b, I(c) as inserted by section 9 of the bill by replacing it with the following:

(c) The acquisition of real property to remove structures beyond repair, public nuisances, structures unfit for human habitation or use, and abandoned property when such structures or property constitute a menace to health and safety; and

Amend RSA 498-A:2, VII(a)(3) as inserted by section 11 of the bill by replacing it with the following:

(3) The acquisition of real property to remove structures beyond repair, public nuisances, structures unfit for human habitation or use, and abandoned property when such structures or property constitute a menace to health and safety; and

Amend the bill by replacing all after section 27 with the following:

28 Effective Date. This act shall take effect January 1, 2007.

The signatures below attest to the authenticity of this Report on SB 287FN, an act making certain changes to the eminent domain statute.

*Conferees on the Part  
of the Senate*

Sen. Green, Dist. 6  
 Sen. Letourneau, Dist. 19  
 Sen. Gottesman, Dist. 12

*Conferees on the Part  
of the House*

Rep. Mooney, Hills. 19  
 Rep. Dokmo, Hills. 6  
 Rep. Buxton, Rock. 10  
 Rep. Shurtleff, Merr. 10

**2006-2257-CofC**

#### AMENDED ANALYSIS

This bill defines the term “public use” for purposes of taking by eminent domain.

**Adopted.**



**May 16, 2006**  
**2006-2269-CofC**  
**05/04**

Committee of Conference Report on SB 336, an act relative to security deposits in landlord tenant matters.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 3 with the following:

3 Effective Date. This act shall take effect July 1, 2006.

The signatures below attest to the authenticity of this Report on SB 336, an act relative to security deposits in landlord tenant matters.

*Conferees on the Part  
of the Senate*

Sen. Gallus, Dist. 1  
 Sen. Martel, Dist. 18  
 Sen. Hassan, Dist. 23

*Conferees on the Part  
of the House*

Rep. Sorg, Graf. 3  
 Rep. Hunt, Ches. 7  
 Rep. Buxton, Rock. 10  
 Rep. Shurtleff, Merr. 10

**Adopted.**

**May 16, 2006**  
**2006-2261-CofC**  
**10/05**

Committee of Conference Report on SB 352-FN, an act relative to the regulation of real estate appraisers.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House each pass the bill as amended by the House.

The signatures below attest to the authenticity of this Report on SB 352-FN, an act relative to the regulation of real estate appraisers.

*Conferees on the Part  
of the Senate*

Sen. Gallus, Dist. 1  
 Sen. Letourneau, Dist. 19  
 Sen. Larsen, Dist. 15

*Conferees on the Part  
of the House*

Rep. Dexter, Ches. 6  
 Rep. Hawkins, Hills. 18  
 Rep. Irwin, Hills. 3  
 Rep. P. McMahon, Merr. 3

**Adopted.**

**May 16, 2006**  
**2006-2264-CofC**  
**10/03**

Committee of Conference Report on SB 358-FN, an act relative to an advanced registered nurse practitioner's duty to warn of violent acts of patients.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 2 with the following:  
 2 Effective Date. This act shall take effect July 1, 2006.

The signatures below attest to the authenticity of this Report on SB 358-FN, an act relative to an advanced registered nurse practitioner's duty to warn of violent acts of patients.

*Conferees on the Part  
of the Senate*

Sen. Martel, Dist. 18  
 Sen. Kenney, Dist. 3  
 Sen. Fuller Clark, Dist. 24

*Conferees on the Part  
of the House*

Rep. Dalrymple, Rock. 4  
 Rep. Millham, Belk. 5  
 Rep. Houde-Quimby, Sull. 1  
 Rep. Irwin, Hills. 3

**Adopted.**

**May 17, 2006**  
**2006-2300-CofC**  
**10/05**

Committee of Conference Report on SB 359-FN, an act relative to the regulation of plumbers and water treatment technicians by the plumbers' board.

**Recommendation:**

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by inserting after section 12 the following and renumbering the original sections 13- 20 to read as 14-21, respectively:

13 Disciplinary Action; Criminal Offenses. Amend RSA 329-A:12, II(b) to read as follows:

(b) Conviction of a felony or ~~[any offense involving moral turpitude]~~ **any criminal offense involving injury to a victim or the risk of such injury or any criminal offense involving dishonesty;**

Amend RSA 329-A:16, II as inserted by section 18 of the bill by replacing it with the following:

***II. The board shall refer all allegations of violations specified in RSA 329-A:18 to the New Hampshire attorney general and to the county attorney in the appropriate county. The county attorney shall investigate such allegations and take appropriate action if the attorney general does not do so.***

The signatures below attest to the authenticity of this Report on SB 359-FN, an act relative to the regulation of plumbers and water treatment technicians by the plumbers' board.

*Conferees on the Part  
of the Senate*

Sen. Kenney, Dist. 3  
 Sen. Roberge, Dist. 9  
 Sen. Larsen, Dist. 15

*Conferees on the Part  
of the House*

Rep. Ryder, Hills. 5  
 Rep. Coburn, Rock. 4  
 Rep. Pilotte, Hills. 16  
 Rep. F. Sullivan, Hills. 12

**Adopted.**

**May 16, 2006**  
**2006-2265-CofC**  
**06/09**

Committee of Conference Report on SB 371-FN, an act relative to the continuation of certain wetlands fees.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and concur with the House amendment, and

That the Senate and House adopt the following new amendment to the bill as amended by the House, and pass the bill as so amended:

Amend the bill by replacing section 1 with the following:

1 Extension of Fee for Excavating and Dredging Permits. Amend 2003, 224:8, I to read as follows:

I. Section 3 of this act shall take effect July 1, [2006] **2010**.

Amend the bill by replacing section 2 with the following:

2 Report Required. The wetlands bureau, department of environmental services shall make reports available upon request to the legislature and the appropriate policy committees relative to the permitting process. The report shall include the following categories: minimum impact, minor impact, major impact, and shoreline structures. In each such category, the report shall include:

I. Number of applications received.

II. Associated fees.

III. Applications waiting for review.

IV. Average number of days required to issue permits.

The signatures below attest to the authenticity of this Report on SB 371-FN, an act relative to the continuation of certain wetlands fees.

*Conferees on the Part  
of the Senate*

Sen. Gallus, Dist. 1

Sen. Green, Dist. 6

Sen. Hassan, Dist. 23

*Conferees on the Part  
of the House*

Rep. Camm, Rock. 8

Rep. Lund, Rock. 5

Rep. Carson, Rock. 3

Rep. Almy, Graf. 11

**2006-2265-CofC**

#### AMENDED ANALYSIS

This bill extends the current fee for an excavating and dredging permit until July 1, 2010.

This bill requires the wetlands bureau, department of environmental services to make a report on the permitting process available to the legislature.

**Adopted.**

**May 18, 2006**  
**2006-2346-CofC**  
**05/03**

Committee of Conference Report on SB 374-FN, an act relative to the state children's health insurance program.

Recommendation:

That the Senate recede from its position of nonconcurrence with the House amendment, and

That the House recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing section 2 with the following:

2 Department of Health and Human Services; Healthy Kids Silver Program; Fiscal Committee Approval Required for Expenditures Above Budgeted Amounts. Amend 2005, 117:119 to read as follows:

177:119 Department of Health and Human Services; Healthy Kids Silver Program; Cap. Notwithstanding any other provision of law, for the biennium [~~beginning July 1, 2005 and continuing thereafter~~] ***ending June 30, 2007***, the department of health and human services shall not increase expenditures in approved budgets for the Healthy Kids Silver Program without prior approval [~~and additional appropriations from~~] ***of the fiscal committee of the general court. If expenditures for the Healthy Kids Silver Program will exceed the department's current appropriation for the Healthy Kids Silver Program, the commissioner may recommend that savings found elsewhere in the department be used to offset the amount of any such deficit. The commissioner shall submit to the fiscal committee of the general court and to the finance committees of the house and the senate any such proposed changes, which shall be subject to the prior approval of the fiscal committee of the general court.***

Amend the bill by replacing section 4 with the following:

4 Healthy Kids Corporation. Notwithstanding RSA 126-A:5, XIV, as inserted by section 3 of this act, or any other provision of law to the contrary, the commissioner shall use the healthy kids corporation as the sole source provider of administrative and outreach services for the state children's health insurance program and premium billing and collection services for the Medicaid for Employed Adults with Disabilities (MEAD) program until July 1, 2007. As part of the premium reconciliation process, the commissioner may allow the healthy kids corporation to retain up to the sum of \$100,000 for fiscal year 2006.

The signatures below attest to the authenticity of this Report on SB 374-FN, an act relative to the state children's health insurance program.

*Conferees on the Part  
of the Senate*

Sen. Green, Dist. 6  
Sen. Barnes, Dist. 17  
Sen. Larsen, Dist. 15

*Conferees on the Part  
of the House*

Rep. Stepanek, Hills. 6  
Rep. Hunt, Ches. 7  
Rep. S. Scamman, Rock. 13  
Rep. DeStefano, Merr. 13

**Adopted.**

**May 16, 2006**

**2006-2281-CofC**

**09/01**

Committee of Conference Report on SB 388, an act relative to farm composting and pesticides.

Recommendation:

That the Senate recede from its position of nonconcurrency with the House amendment, and

That the House recede from its position in adopting its amendment to the bill, and

That the Senate and House each pass the bill as amended by the Senate.

The signatures below attest to the authenticity of this Report on SB 388, an act relative to farm composting and pesticides.

*Conferees on the Part  
of the Senate*

Sen. Odell, Dist. 8  
Sen. Johnson, Dist. 2  
Sen. Hassan, Dist. 23

*Conferees on the Part  
of the House*

Rep. O'Connell, Hills. 6  
Rep. Babson, Carr. 3  
Rep. Sawyer, Ches. 2  
Rep. Essex, Hills. 1

**Adopted.**

**May 18, 2006**  
**2006-2367-CofC**  
**03/04**

Committee of Conference Report on SB 403, an act relative to verification of identity when a person registers or attempts to vote.

**Recommendation:**

That the Senate recede from its position of nonconcurrence with the House amendment, and

That the House recede from its position in adopting its amendment to the bill, and

That the Senate and House adopt the following new amendment to the bill as amended by the Senate, and pass the bill as so amended:

Amend the bill by replacing all after the enacting clause with the following:

1 New Paragraphs; Determining Qualifications of Applicant; Identity; Verification. Amend RSA 654:12 by inserting after paragraph II the following new paragraphs:

III. To prove the qualifications set forth in paragraphs I and II, an applicant for registration as a voter must prove his or her identity to establish that the evidence used to prove age, citizenship, and domicile relate to the applicant. A person who has in his or her immediate possession a photo identification approved for use by paragraph II must present that identification when applying for registration. A person who does not have an approved photo identification with him or her may establish identity through any reasonable means, including, but not limited to: photo identification not approved by paragraph II, but determined to be legitimate by the supervisors of the checklist or clerk, verification of the person's identity by another person registered as a voter and known to the supervisor or clerk, or completion of the affidavit to be completed by a challenged voter. Residents of a nursing home or similar facility may prove their identity through verification of identity by the administrator of the facility or by his or her designee. For the purposes of this section, the application of a person whose identity has been verified by an official of a nursing home or similar facility shall be treated in the same manner as the application of a person who proved his or her identity with a photo identification.

IV. Any person who is applying for registration as a voter and who is currently registered to vote in a different town or ward in New Hampshire shall complete the voter registration form provided for in RSA 654:7. If the election official receiving the application confirms through the centralized voter registration database required by RSA 654:45 that the applicant is currently registered to vote in New Hampshire, the applicant shall prove identity and domicile, but shall not be required to prove his or her age or citizenship.

V.(a) The election official approving the application for registration as voter of a person who does not present an approved form of photo identification as proof of identity when registering, shall mark the voter registration form to indicate that no photo identification was presented. The person entering the voter information into the centralized voter registration database shall determine if the person is listed in the system as having been previously registered in the town or ward reported by the applicant on the voter registration form. If the person is a new registrant who has not been previously registered anywhere in New Hampshire or if the centralized voter registration database does not confirm a previous registration claimed on the voter registration form, the election official shall cause the record created in the centralized voter registration database to indicate that the person is a new applicant in New Hampshire and that no photo identification was presented. When municipalities enter information on people who register on election day into the centralized voter registration database, to the extent practical applicants who are registering for the first time in New Hampshire and who also register without presenting an approved photo identification shall be entered first.

(b) The secretary of state shall cause a letter of identity verification to be mailed by first class mail to each voter identified at a state general election as a first-time election day registrant in New Hampshire who also did not verify his or her identity with an approved photo identification. The letter shall be mailed within 90 days after the general election. The secretary of state shall mark the envelope with instructions to the United States Post Office not to forward the letter and to provide address correction information. The letter shall notify the person that a person who was unable to present photo identification registered or registered and voted using his or her name and address and instruct the person to contact the attorney general immediately if he or she did not register and vote.

(c) The secretary of state shall cause any letters mailed pursuant to subparagraph (b) that are returned as undeliverable by the United States Post Office to be referred to the attorney general. Upon receipt of notice from a person who receives a letter of identity verification that the person did not register and vote, or upon receipt of a referral from the secretary of state, the attorney general shall cause an investigation to be made to determine whether fraudulent registration or voting occurred.

2 Obtaining a Ballot; Verification of Age. Amend RSA 659:13 to read as follows:

659:13 Obtaining a Ballot. A person desiring to vote shall, before being admitted to the enclosed space within the guardrail, announce his or her name to one of the ballot clerks who shall thereupon repeat the name; and, if the name is found on the checklist by the ballot clerk, the ballot clerk shall put a checkmark beside it and again repeat the name. The ballot clerk shall state the address listed on the checklist for the voter, and ask if the address is correct; if the address on the checklist is not correct, the ballot clerk shall correct the address in red on the *paper* checklist **and the supervisors of the checklist shall cause the centralized voter registration database to reflect the correction.** The voter, if still qualified to vote in the town or ward and unless challenged as provided for in RSA 659:27-33, shall then be allowed to enter the space enclosed by the guardrail. After the voter enters the enclosed space, the ballot clerk shall give the voter one of each ballot to be voted on in that election which shall be folded as it was upon receipt from the secretary of state.

3 Effective Date. This act shall take effect September 1, 2006.

The signatures below attest to the authenticity of this Report on SB 403, an act relative to verification of identity when a person registers or attempts to vote.

*Conferees on the Part  
of the Senate*

Sen. Green, Dist. 6  
Sen. Barnes, Dist. 17  
Sen. Gatsas, Dist. 16

*Conferees on the Part  
of the House*

Rep. Whalley, Belk. 5  
Rep. Drisko, Hills. 5  
Rep. Boehm, Hills. 27  
Rep. O'Neil, Rock. 15

**2006-2367-CofC**

**AMENDED ANALYSIS**

This bill:

I. Requires proof of identity by persons registering to vote and modifies certain procedures for voter registration applications.

II. Requires supervisors of the checklist to include election day changes of address in the centralized voter registration database.

SENATOR HASSAN: Thank you, Mr. President. I rise in opposition to the Committee of Conference report and urge my colleagues to vote against it. This is a bill, again, that deals with voting rights at a time when our own Attorney General's Office has indicated that there is no voter fraud in this state. What this bill does is create a second class of citizens for purposes of voting. The Committee of Conference report changed the Senate Bill 403 so that students may no longer prove their identity with their student IDs from colleges or universities. That, therefore, narrows the kind of documentation people can legitimately use to prove their status as a domicile, and for that reason alone, we should reject this Committee of Conference report. But, in addition, people should understand that this new Senate Bill 403 now says that, if you prove your identity by affidavit on same-day registration, you will be specially flagged on the central database kept by our Secretary of State, and you will therefore be a second-class citizen for that purpose, and there's nothing in the bill that says at what point the flagging is removed. So you're specially identified now as being suspect, simply because you used an affidavit when you registered on the same day as voting. Third, this bill provides that anybody who moves after they vote will likely be subject to an Attorney General criminal investigation for voter fraud when all you did was move. As I've said before on the floor of this Senate, we shouldn't have second-class citizens for purposes of voting. Just because somebody doesn't have a driver's license in this state does not mean they should be a second-class citizen, or have to go pay a special fee to get some sort of photo ID, just for the purpose of voting. All you need to do to vote in the state of New Hampshire is be domiciled here and have the desire to participate in our democracy, which is what our Constitution guarantees all of us. Thank you, Mr. President.

**Recess.**

SENATOR GREEN: When we recessed, we were discussing Senate Bill 403, which is an election reform piece of legislation, which I happen to be the prime sponsor, and I just wanted to make sure that you understood what this amendment actually does, and the way we understood it, in getting concurrence with the House on this bill. This particular piece of legislation currently, as it's now drafted, only affects general elections. The reason for that is, after further discussions with the Secretary of State, he felt it would be wise if we took a look at this through

at least one election or two election cycles before we apply it to every election. It only affects first-time voters. It does not affect all voters. Some people here, of course, feel strongly that all voters should show an ID, but that does not require that in this bill. The other thing that it does clearly, is it makes it clear that we can coordinate between the database and the people who are voting for the first time, and the reason for that is that there needs to be a tool by which the state can verify that people who are voting, and this has nothing to do with whether we have a problem or not, I think it has an issue of whether the state can say, with a straight face, that they have a system in place where they can verify that people who are voting in the state of New Hampshire, that their identity is what it is. It's not about domiciles, it's about identifying the voter, and to make who they are, and that they're the person they portray to be. Once the Secretary of State checks the database with the new voters, and sends out, if they've voted for the first time, there'll be a letter that goes out, and he has ninety days in which to send that letter to verify that that person is the person that they claim to be, and that they are in fact living where they afford to be living. Other than that, the other thing is the verification of age to make sure that they are the right age to do this. Now, we worked with the Secretary of State on this because it was important that he have a vehicle to verify, once and for all, that there is no voter fraud taking place. I'm not saying there has or has not been I just think that we as a state have to have in place a system by which we can direct the Secretary of State to verify the existence of the voters and verify that they are who they say they are. And that's all this amendment really does. It's an attempt to be accountable to the system by the voters who are voting, and I would ask your support. Thank you.

SENATOR ESTABROOK: Thank you, Mr. President. I just want to rise briefly and just express my concern with the fact that the Committee of Conference took out the provision allowing a student ID to be used for this purpose, and that is one of the major reasons that I would like to see this not go forward. I think it's going to have a chilling effect on student participation and the voting process, exactly the opposite of what I'd like to see happen. Thank you, Mr. President.

SENATOR LARSEN: I, too, rise to oppose Senate Bill 403 and its Conference Committee report. Throughout this session we've seen an effort to create increased barriers to voting to make it more and more difficult to accomplish what is a fundamental right of Americans to get to the polls, and to be recognized for their vote. This is, once again, an additional attempt to limit who can vote, and to make it more difficult, and in fact, to make it somewhat frightening to go to the polls because you might be challenged. There are many, many people who move frequently in this state, and to be tracked down by the Attorney General is not something which I think anyone who is approaching the polls wants to imagine. So, I rise to oppose Senate Bill 403.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I too, rise to oppose this bill, and let me make a couple of historical statements. We've only had the right to vote in this country since 1965. That's when they passed the Voting Rights Act. 1965. Before that time, people were prevented from voting all over this country. People were denied the right to vote, particularly in the South, I mean really denied the right to vote. So, 1965, really based on the goodwill of the assassination of the President, we got the Civil Rights Bill passed, and we got the Voting Rights



Bill passed. What did it take to get those bills passed? It took the assassination of the President of the United States, and the goodwill that was brought forth by his Vice President when he became President. Lyndon Johnson brought those bills to fruition. The right to vote is a treasured item, and we don't take it as a responsibility, we don't accept it as a responsibility because we haven't got that civics class fully staffed. But it's a responsibility, and if we put barriers up again, so that people can't fulfill that responsibility, we get what we get. Low voter participation. In the best of circumstances, and New Hampshire provides, I think, the best of circumstances, it really does, we get people out to vote. Sometimes we get as high as 80% voter turnout. 80% is still only a C+. You know, if you look at that numerical scale. So we should be encouraging, encouraging people to participate in the process because it's a responsibility. Good government is all of our responsibility. And I think if we keep creating barriers, and if those barriers get larger and more cumbersome, we will turn people off from the process. My aim in life as a teacher, as a civics teacher, and by the way, the Secretary of State was my student at Bishop Bradley High School when we was thirteen years old, Senator Bragdon. Thirteen years old, and I taught him civics, and he's become a good Secretary of State. He's the longest sitting Secretary of State in the United States, so I applaud his efforts. But I say this, if we do things that impeded the ability to get there and vote, what we've done is laid the foundations for the destruction of the democratic process. And none of us want that. Thank you, Mr. President.

SENATOR GREEN: Of Senator D'Allesandro, please.

SENATOR D'ALLESANDRO: Senator Green.

SENATOR GREEN: As you know, I am also a very strong supporter of civics.

SENATOR D'ALLESANDRO: We agree on that.

SENATOR GREEN: I guess I keep hearing this word "barrier," and that bothers me, because I think that it's being mistrueed. Senator, do you believe that it's a barrier to voting if you have a show an ID or driver's license to go vote?

SENATOR D'ALLESANDRO: Senator Green, I think it's a problem for some people, it's not a problem for others. But is it a genuine barrier? I'd say no, it isn't. No, it isn't.

SENATOR GREEN: You and I both, you were the teacher, but I fully respect the Secretary of State. Are you aware that the Secretary of State, not only helped draw this bill up, but also supports it?

SENATOR D'ALLESANDRO: Yes, I am, and really, I think his involvement in the process helped make it a better piece of legislation. So, yes.

SENATOR GREEN: He learned his civics lesson very well.

SENATOR D'ALLESANDRO: He did. Well, I hope so.

SENATOR GREEN: Thank you.

SENATOR BURLING: Thank you, Mr. President. I remember registering to vote; I remember it like it was yesterday. It was a warm afternoon in Cornish, and the three selectmen greeted me at the Cornish Town Hall, which did not have internal plumbing, and they said, "What are you here for?" And I said, "My name is Pete Burling, I live here in town, and I'd like to register to vote." They said "Fine." I said, "What do I have to do?" They said, "Give us two bucks." I said, "Give you two bucks? Okay,

here's two bucks." I said, "What else do I have to do?" They handed me a bat, and they said, "Read that." I said "Read the bat?" They said, "Turn it over, kid." On the other side of the bat was this portion of the Constitution of the state of New Hampshire, which some ancient and long forgotten Cornish citizen had carved into the underside of the bat. It was a very cute, and perhaps I'll write a story about it one day, simple process. There are only two things that struck me about it. It was (a) unconstitutional, and (b) unconstitutional. It was, in my memory, a charming and kind of funny story. But, in terms of the voting rights of young people in this country, it was demonstration of what we do, when frankly, we don't want to encourage the next generation to vote. That's what this bill replicates; the erection of a barrier which will deter young people from exercising their franchise. I just want to touch briefly on a few points that are clear on the face of this document. If you show up and attempt to same-day register, you will be asked for a photo ID. If you are like most students, you will produce your student ID card. You will be told, by a very well-meaning, but probably a officious-sounding person, that your student ID isn't good enough, that you have to have a New Hampshire driver's license or similar driver's license, and some will say, "Fine, here it is" and hand it over. Others will say, "It's up in my room, I can't get it right now. Is there an affidavit procedure?" Yes. Well, the ones who file the affidavit, they will get a card. The card will be mailed first-class mail by the Secretary of State's Office, and with the assumption, which some of you may hold, but I do not, that every piece of first-class mail shows up where it's intended to go, precisely within ninety days. These cards will go out and the theory is that they'll come back. Well I don't know about your children, but I know my child very well. If I sent him a thousand dollar check, it would be tough figuring out if he knew how to get to the bank to deposit it. The notion that somebody is going to take that card, put a stamp on it and return it, or otherwise respond, even though it's a first-class piece of mail, is surprising to me. It seems to me it demonstrates a huge disconnect between our generation and that of, it would be our grandchildren in most cases. I don't understand why we think that's going to be proof enough that a criminal violation has occurred, that we do the next thing, which the statute requires, and that is notification of the Attorney General of the state of New Hampshire to begin a criminal investigation. That's remarkable. What other situation in life do we say that mere failure to respond to a piece of mail results in the initiation of a criminal investigation by the Department of Justice of the state of New Hampshire? Nothing even like it. And I would think, frankly, if this were happening to people of our generation, our friends, our neighbors, if we were saying to them, you failed to respond to something within ninety days, we're going investigate you for a criminal violation, we'd be up in arms. I guarantee you our phones and computers would be ringing right off the hook. I'm dazzled by the legal challenges which this bill will generate. In a time in which we have heard time and time again how close our budget is, and how little money we have for frivolities, pass this bill and I guarantee you Fiscal will be in there listening to a request for \$100,000 in defense fees for the Department of Justice, while people who know their rights sue us, and they'll be right. They will be absolutely right. Had we but one piece of evidence that there is fraud taking place sufficient to support this initiative, we might well choose to do this, but such is not the case. This is an undeserved, inappropriate, and to my way of thinking, tragic statement from our generation to the next generation of voters that we don't trust them, and that frankly we don't think they've earned the

right of the franchise. Well I tell you, I know my boy, he's earned it, and next year when he's entitled by the U.S. Constitution to exercise his vote, wherever he is, I hope he does it. I hope he does it, whatever, whatever, the senior members of his legislative group have decided to do, whatever pitfalls and traps we may have put in his way. I hope he knows that his future turns on the right to cast his vote, and I hope he fights for it. This is unworthy of us.

SENATOR HASSAN: Thank you, Mr. President. I simply rise to respond to the colloquy that we had just a moment ago between Senator Green and Senator D'Allesandro about whether requiring a photo ID to vote is a barrier, and I would say that, for most citizens in this state, it is not much of a barrier, although the possibility that one might not have their ID with them might deter some people from voting. But we did do research at the beginning of the session about this, and it is important for the record of this body to show that 25,000 adults over the age of eighteen in New Hampshire do not have drivers' licenses. Many of them are people like my son, who will turn eighteen at the end of this month, but who will never have a driver's license because he's too physically disabled to have one. Right now, he has a high school ID with his picture on it, but that's it, and when he stops going to high school, I don't know when the next opportunity for him to have a photo ID is. I do know there are hundreds and thousands of people like him in the state of New Hampshire, and I do not believe that for him to vote, it should require that a caregiver or some agency with a wheelchair accessible van, we happen to have one because my family can afford them, but many people in this state who are physically disabled do not. We should not be requiring a van to go to the house to pick the person up, to drive them to DMV, to pay for a non-driver's photo ID, for the constitutional privilege to vote, and that is what is at essence here. There are people who will be disenfranchised no matter how well intended we are, and the reason we keep raising this issue of whether there was voter fraud or not, whether the Attorney General has found it, is that we are required, when we protect the freedom under the New Hampshire Constitution, we are required as legislators to balance harm versus good. There is no voter fraud that we are trying to prevent here; on the other hand, we will disenfranchise some people. The elderly, the disabled, the young people who have seen no reason yet to get a driver's license, and who are not in college, we will be disenfranchising them to fix a problem that doesn't exist, and that's not a balance I will make. Thank you.

SENATOR BOYCE: Thank you, Mr. President. I just wanted to clarify some things that I've heard that don't actually appear in the bill, as was stated. It was stated that, if someone registers to vote on Election Day, without a driver's license, with one of these other, a person who does not have a proof of identification with him or her, may establish their identity through any reasonable means. So, if they've established their identity through these other reasonable means, then that person will get a letter, or card, sent to the address that they've provided. Now, if that letter goes properly to the address that they've provided, and they get it, they look at it and say, "Oh, it says that I registered to vote, and I voted, was that me? Yeah. It was me." They throw it away; they don't have to respond. If they don't respond, that's the end of it. If however, they've given an address, as happened in a previous election, of a state park where no permanent residency is allowed, and a group of people did that, and if the address that it's mailed to is not a real address, made up, then that piece of mail goes back and then it's turned over the At-

torney General's Office. If someone has done something that appears on the face to be at least questionable as to its validity, such as giving a false address, then there is also the suspicion that they've also given a false identification. Currently, we don't have any way to prove that. We do have some things that haven't been pursued by the Attorney General's Office, sometimes for lack of, I guess, the lack of time, because it's a shorter, their time to act is reduced because it's a low-priority misdemeanor. But we have had evidence presented to the legislature from town clerks, letters from people who said, "I registered and voted in election such and such, and I don't really live there, and now I need to transfer my voting back to where I really live." That's basically what these, I think there were a couple dozen letters from one town clerk, that's what they said. We turned those over to the Attorney General's Office. Some of them they couldn't find because even the address that they gave that they said they wanted to go back to didn't exist. Some of them were out of state, and it didn't seem cost-efficient to go and try to catch them out of state, there was not manpower to go chase them. But, we were told by the Attorney General, and the Secretary of State, that yes, those letters did appear to be prima facie evidence that voter fraud had occurred. However, how do you pursue it? Well, they didn't. But, that doesn't mean it's not happening. Well, we heard, I'm sure all of us got a letter last week from some people who, in their letter said that they were from out of state and that they didn't want to change their registration on their car because, I guess, the only reason would be because they don't really live here, but they want to vote here. Why do they want to vote here? I don't know. I heard from one group of people that were claiming the reason they wanted to vote here was because well, where I come from, everybody votes like me, so if I vote here, not everybody votes like me, so I'll make more of a difference here. I can make more a difference if I pretend to be a resident of New Hampshire. But is that right? Should we be allowing people to do that? They were complaining because we were going to make them do something onerous like actually act like a resident. You want to be resident of this state, you want to vote here, do what residents do. Residents are going to have to show a photo ID, so will non-residents, but non-residents shouldn't be voting. Neither should non-citizens. This will stop people that are not citizens from voting as well. I wouldn't want to make any non-citizens feel like second-class citizens because they're not citizens and shouldn't be voting. How are we ever going to keep them from doing it if we don't even ask them who the heck they are? I think this is a very good bill. Pass it. Thank you.

SENATOR BURLING: I'd like to acknowledge that I misspoke. I did misunderstand and misspeak about the issue of what a recipient of one of these cards may do. The fact that I'm concerned about how that card triggers events remains as I stated it earlier. I'm terribly troubled by the notion that a card, which is returned as undeliverable, triggers a criminal investigation. That's the point I was focusing on. I appreciate my colleague's correction, and I stand corrected.

**The question is on adoption of the Committee of Conference Report.**

**A roll call was requested by Senator Clegg.**

**Seconded by Senator Bragdon.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Green, Flanders, Odell, Roberge, Eaton, Bragdon, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**The following Senators voted No: Burling, Gottesman, Foster, Larsen, D'Allesandro, Estabrook, Hassan, Fuller Clark.**

**Yeas: 16 - Nays: 8**

**Adopted.**

### **HOUSE MESSAGE**

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Bill:

**SB 140**, relative to the acceptance of in-lieu payments for the restoration or creation of wetlands and the preservation of upland areas adjacent to wetland areas.

**SB 250**, relative to lead paint poisoning prevention.

**SB 287-FN**, making certain changes to the eminent domain statute.

**SB 336**, relative to security deposits in landlord tenant matters.

**SB 352-FN**, relative to the regulation of real estate appraisers.

**SB 358-FN**, relative to an advanced registered nurse practitioner's duty to warn of violent acts of patients.

**SB 359-FN**, relative to the regulation of plumbers and water treatment technicians by the plumbers' board.

**SB 371-FN**, relative to the continuation of certain wetlands fees.

**SB 374-FN**, relative to the state children's health insurance program.

**SB 388**, relative to farm composting and pesticides.

**SB 403**, relative to verification of identity when a person registers or attempts to vote.

### **REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

**HB 385**, establishing a commission to study certain issues related to health and human services.

**HB 592**, relative to minimum support orders.

**HB 627-FN**, relative to extended jurisdiction over certain 17 year old offenders.

**HB 645-FN**, relative to reduced cigarette ignition propensity.

**HB 653-FN-L**, relative to bonds for construction, development, improvement, and acquisition of broadband facilities.

**HB 1113**, adding a definition of "public academy" to the definition of "high school"; relative to the membership of the state advisory committee on the education of children/students with disabilities; and amending the definition of "limited English proficient pupil."

**HB 1116**, relative to service of the notice to quit and writ of summons in landlord tenant actions.

**HB 1192**, relative to property and casualty insurance.

**HB 1206**, relative to the assessing standards board, and the approval of appraisal contracts.

**HB 1223-FN**, relative to the use of real estate brokers by the department of transportation.

**HB 1231-FN**, relative to the penalty for assaulting a firefighter, licensed emergency medical care provider, or law enforcement officer.

**HB 1241-FN-L**, extending the kindergarten construction aid program.

**HB 1265**, extending the final report date of the commission to study the relationship between public health and the environment.

**HB 1274**, relative to certain disclosures to the department of health and human services.

**HB 1285**, relative to adoption.

**HB 1295**, relative to notice brake shift interlock and key positions by automobile dealers to consumers.

**HB 1305-L**, authorizing municipalities to adopt regulations relative to businesses obtaining municipal permits.

**HB 1337**, establishing the amusement ride safety advisory board.

**HB 1386**, relative to exceptions to the prohibition on carrying and selling knives.

**HB 1424**, relative to persons permitted to attend child abuse and neglect hearings.

**HB 1427**, relative to guiding principles for developmentally disabled services.

**HB 1435**, relative to the emergency plan for service animals and establishing a commission to study the evacuation and housing of animals during an emergency.

**HB 1448**, relative to the applicability of drivers' license revocations for drugs or alcohol involvement and relative to the medical/vision advisory board.

**HB 1470**, relative to overweight vehicle permit fees.

**HB 1567**, relative to removing names from the checklist.

**HB 1583**, relative to grounds for modification of parental rights and responsibilities.

**HB 1612-FN**, relative to the use of lottery revenue as purses for horse and dog racing.

**HB 1624-FN**, relative to boat noise.

**HB 1625**, establishing penalties for guardians ad litem who fail to file reports.

**HB 1630-L**, relative to land use change taxes imposed for certain road construction on rights-of-way.

**HB 1648-FN**, relative to legal residency and financial liability for children in certain residential placements.

**HB 1662-FN**, establishing the crime of peonage.

**HB 1667-FN**, establishing penalties for methamphetamine manufacturing and possession of substances with intent to manufacture methamphetamine.

**HB 1671-FN**, relative to the regulation of dentists and dental hygienists by the board of dental examiners.

**HB 1679-FN-L**, relative to the property tax exemption for university system property.

**HB 1711-FN**, relative to the regulation of fuel gas fitters.

**HB 1718-FN**, requiring a written disclosure statement be provided to prospective nursing home facility clients.

**HB 1735-FN**, relative to awarding the state employees' health insurance plan.

**HB 2006**, relative to the state 10-year transportation improvement plan, the exemption of highway projects from eminent domain, improvements on the FE Everett Turnpike/I-293 and certain segments of NH 101, a bridge crossing the Merrimack, and establishing a study committee.

**SB 190-L**, establishing a committee to study affordable housing in New Hampshire.

**SB 221**, relative to obtaining a driver's license and creating a violation for failure to pay a highway toll.

**SB 231**, relative to the residency requirement to qualify for the elderly property tax exemption.

**SB 239**, renaming the bridge located on Main Street in Enfield, New Hampshire and crossing the Mascoma River as the Enfield Women's Memorial Bridge and naming the bridge located on Main Street in Newmarket, New Hampshire and crossing the Lamprey River as the Newmarket Veterans Bridge.

**SB 246**, relative to provisions for permissible contact between the agent of the defendant subject to a protective order and a plaintiff.

**SB 269**, ratifying all actions from the 1996 Seabrook annual town meeting, pertaining to the adoption of article 3, through September 12, 2006.

**SB 281-FN**, establishing an organ and tissue donor registry.

**SB 283-FN**, relative to stop loss insurance.

**SB 294-FN-A**, authorizing 7 additional state troopers and making an appropriation therefor.

**SB 300-FN-A-L**, exempting certain transfers of real estate between charitable organizations from the real estate transfer tax.

**SB 305-FN**, relative to the regulation of recreational therapists.

**SB 319**, establishing a task force to study county government, and relative to prohibiting filing with the registry of deeds a document that includes an individual's social security number or financial information.

**SB 327**, establishing the New Hampshire civil war cannon restoration fund.

**SB 334**, authorizing the use of a credit freeze as a means of deterring identity theft.

**SB 341**, relative to the applicability of OBD II testing requirements.

**SB 382**, relative to the guardian ad litem board.

**SB 405**, relative to the acceptance of certain tax-sheltered funds by the Manchester employees' contributory retirement system.

Senator D'Allesandro moved adoption.

**Adopted.**

**REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

**HB 716-FN**, relative to securities regulation.

**HB 1458-FN**, relative to the regulation of landscape architects.

**HB 1461**, establishing a task force to study Temporary Assistance to Needy Families (TANF).

**HB 1477**, implementing the federal Law Enforcement Officers Safety Act of 2004.

**HB 1526**, relative to the composition of the medical review subcommittee of the medical review board.

**HB 1546**, relative to patient information.

**HB 1585**, relative to enforcement of orders regarding parenting plans.

**HB 1660-FN**, regulating identity theft.

**HB 1687**, extending certain studies and adding a certain duty relative to pharmacy reimbursement.

**HB 1763**, extending a committee and adding certain duties relative to pharmacy reimbursement.

**SB 178**, designating a certain highway the Gold Star Mothers Highway.

**SB 282-FN-L**, relative to removal of abandoned vehicles.

Senator D'Allesandro moved adoption.

**Adopted.**

**RESOLUTION**

Senator Clegg moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time.

**Adopted.**

**LATE SESSION****ANNOUNCEMENTS**

**SENATOR KENNEY:** Thank you, Mr. President. If I may, if I could address the body? Earlier, on HB 1343, I wanted to get an opportunity to speak. I was one of the three that had voted against that bill and it was not because I did not support the soldiers' home and the remodeling efforts through capital appropriation. It is because of a serious problem that exists in my community, which is a major gas spill that occurred in 1997 to the local Texaco station. This created such a problem for our community that a home behind this gas station, people that I know very well, their house was condemned and they had to displace from their home to another location. Today, almost ten years later, there are monitoring wells that surround their property behind the Texaco station. This oil fund is a very important fund for my constituents who happen to own that Texaco station and they, up to this point, have drawn about \$1 million from that fund and they used to draw on a monthly basis from that fund and more recently, it is down to a quarterly basis. Now, the viability of that business relies solely on this ODD fund. Without that, that particular business owner would go bankrupt and that property would just be left for whomever. So, it is a fund that I particularly watch very carefully. It is important to my constituent and to my district. So, when I see us taking funds out of that particular ODD fund, then I jump and



I twitch and I have to respond and I try to support the people who need these monies so desperately. So, I just wanted to explain my vote. I felt like Kevin Costner in the movie "No Way Out" and I would hope in the future that when we look at veterans' bills or amendments, that we treat them separately, because that is where my heart is and when we look at the ODD fund, that somehow we treat that separately, too, because that is a very important issue for my district. So, I just wanted to explain where I was coming from on my vote. Thank you.

### RESOLUTION

Senator Clegg moved that the Senate recess to the Call of the Chair for the purpose of sending and receiving messages, processing enrolled bill reports and amendments.

**Adopted.**

**In recess to the Call of the Chair.**

### HOUSE MESSAGE

The House of Representatives has laid on the table the report of the Committees of Conference to which was referred the following entitled Bills:

**HB 1603-FN**, relative to administration and enforcement by the division of forests and lands over forest resources and timber harvesting.

**HB 1752**, requiring notice regarding the classifications of employee and independent contractor.

### HOUSE MESSAGE

The House of Representatives has adopted the recommendation of the Committee of Conference to which was referred the following entitled Bill:

**HB 37-FN**, relative to health insurance coverage for full-time students on medical leaves of absence.

**HB 76**, relative to distribution of state aid to charter schools; relative to establishing the 21<sup>st</sup> century scholars program and making an appropriation therefor; and relative to funding for charter schools.

**HB 349**, relative to placement and removal of political advertising.

**HB 506**, including employees of charitable organizations under the protection of the state law against discrimination.

**HB 582**, relative to management of electronic records by the department of state, and relative to departmental salaries.

**HB 587**, relative to child abuse and neglect investigations by the department of health and human services.

**HB 656-FN**, relative to medical decision making for those adults without capacity to make health care decisions for themselves and establishing procedures for Do Not Resuscitate Orders.

**HB 678-FN**, relative to the insurance premium tax.

**HB 1126**, relative to licenses for first mortgage bankers, brokers, pawn-brokers, and money lenders and relative to licensing of money transmitters.

**HB 1146**, establishing a commission to study certain energy and environmental issues.

**HB 1194**, relative to job protection for firefighters, rescue workers, and emergency medical personnel, and relative to health insurance claim review and the qualifications and responsibilities of a medical director.

**HB 1238-FN**, relative to centralized voter registration database information and relative to interference with campaign communications.

**HB 1315**, relative to the definition and classification of dams and relative to the acceptance of Jericho Lake dam and dike in Berlin.

**HB 1331**, relative to the New Hampshire Temporary Assistance to Needy Families (TANF) program and making an appropriation therefor.

**HB 1332**, establishing a commission to study health care in New Hampshire correctional facilities.

**HB 1343**, relative to the duties of the council on resources and development, and making bonded appropriations to the department of environmental services and the New Hampshire veterans' home.

**HB 1373**, establishing a commission to study ways to encourage the proper recycling and disposal of grease trap wastes and to determine ways to develop additional disposal capacity.

**HB 1407-FN-A**, relative to funding exotic aquatic weeds eradication and control.

**HB 1426**, granting a right-of-way over state-owned land.

**HB 1429**, relative to municipal exemptions for hazardous waste cleanup liability and preventing the exemption of privately-owned landfills and ancillary facilities from property taxes.

**HB 1459-FN-A**, making an appropriation to the department of regional community-technical colleges for tuition maintenance; authorizing the temporary use of the department of regional community-technical colleges nonlapsing account for tuition maintenance; and making a bonded capital appropriation to the department of regional community-technical colleges for construction of a health education center nursing wing at the New Hampshire technical institute in Concord.

**HB 1463**, relative to boating and water safety.

**HB 1474-FN**, relative to unemployment compensation contribution rates and benefits and establishing a commission to investigate the feasibility of merging the department of employment security into the department of labor.

**HB 1491**, extending certain deadlines relating to the Great Bay Estuary Commission.

**HB 1508**, relative to acceptance of applications by planning boards.

**HB 1574**, relative to membership on the public employees deferred compensation commission and relative to criminal penalties for certain securities violations.

**HB 1590-FN**, relative to the pari-mutuel commission.

**HB 1626-FN-A**, relative to appropriations for the expenses of certain departments of the state and establishing a quality early learning opportunity initiative and making an appropriation therefor.

**HB 1692-FN**, establishing the New Hampshire sexual predators act.

**HB 1697-FN**, relative to certain state salaries; establishing the position of director of homeland security and emergency management in the department of safety; authorizing the commissioner of safety to reorganize certain divisions, responsibilities, and activities of the department; relative to appeals of reclassification of positions; relative to a study of the unclassified salary schedule; and relative to the registration of apprentices by the board of barbering, cosmetology, and esthetics.

**HB 1710-FN-A**, making an appropriation to the department of health and human services for home care providers.

**HB 1720-FN**, relative to notice of parent liability in CHINS proceedings.

**HB 1724-FN**, relative to compensation and benefits for reserve and national guard members who are state employees and amending certain capital appropriations to the adjutant general.

**HB 1744-FN-A**, authorizing the pari-mutuel commission to regulate games of chance conducted by charitable organizations and relative to tournaments conducted by charitable organizations where chips have no monetary face value.

**HB 1758**, classifying bio-oil, bio synthetic gas, and biodiesel as renewable energy sources and relative to taxation of renewable generation facilities.

**HB 1761**, relative to hold over tenants in vacation or recreational rental units.

**HB 1767-FN-A**, authorizing the state acquisition of real estate destroyed in the October 2005 floods, establishing a commission to determine the appropriate use of the property, and making an appropriation therefor.

## ENROLLED BILL AMENDMENTS

**May 26, 2006**  
**2006-2385-EBA**  
**05/10**

### Enrolled Bill Amendment to SB 140

The Committee on Enrolled Bills to which was referred SB 140

**AN ACT** relative to the acceptance of in-lieu payments for the restoration or creation of wetlands and the preservation of upland areas adjacent to wetland areas.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

## FOR THE COMMITTEE

### Explanation to Enrolled Bill Amendment to SB 140

This enrolled bill amendment makes technical corrections to RSA references and a reference to the executive director of the fish and game department.

### Enrolled Bill Amendment to SB 140

Amend RSA 482-A:31, II as inserted by section 1 of the bill by replacing lines 1 and 2 with the following:

II. The method of calculating the amount of in lieu payments under RSA 482-A:30 which shall approximate the total cost of wetlands construction or such other

Amend RSA 482-A:31, III(d) as inserted by section 1 of the bill by replacing line 2 with the following:  
established under RSA 482-A:32.

Amend RSA 482-A:32, II(b) as inserted by section 1 of the bill by replacing it with the following:

(b) The executive director of the fish and game department, or designee.

**Adopted.**

**May 17, 2006**  
**2006-2296-EBA**  
**06/01**

**Enrolled Bill Amendment to SB 200-FN**

The Committee on Enrolled Bills to which was referred SB 200-FN  
AN ACT establishing the uniform athlete agents act.

Having considered the same, report the same with the following  
amendment, and the recommendation that the bill as amended ought  
to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to SB 200-FN**

This enrolled bill amendment makes a grammatical correction.

**Enrolled Bill Amendment to SB 200-FN**

Amend RSA 332-J:10, I as inserted by section 1 of the bill by replacing  
line 4 with the following:

at which the student-athlete is enrolled, or the educational institution  
at which the athlete agent has

**Adopted.**

**May 22, 2006**  
**2006-2320-EBA**  
**06/10**

**Enrolled Bill Amendment to SB 244**

The Committee on Enrolled Bills to which was referred SB 244  
AN ACT relative to unclaimed deposits for utility services.

Having considered the same, report the same with the following  
amendment, and the recommendation that the bill as amended ought  
to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to SB 244**

This enrolled bill amendment makes a technical correction to a bill  
section heading.

**Enrolled Bill Amendment to SB 244**

Amend section 1 of the bill by replacing lines 1-2 with the following:

1 Abandoned Deposits. Amend the section heading of RSA 471-C:8 and  
RSA 471-C:8, I to read as follows:

**Adopted.**

**May 22, 2006**  
**2006-2376-EBA**  
**03/01**

**Enrolled Bill Amendment to SB 245**

The Committee on Enrolled Bills to which was referred SB 245

AN ACT repealing laws relative to the municipal courts and the ad-  
ministrative committee of the district and municipal courts.

Having considered the same, report the same with the following  
amendment, and the recommendation that the bill as amended ought  
to pass.

## FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to SB 245**

This enrolled bill amendment makes a grammatical correction.

**Enrolled Bill Amendment to SB 245**

Amend RSA 604-A:7 as inserted by section 2 of the bill by replacing line 2 with the following:

*and judicial branch family division* shall each have the authority to establish such rules and

**Adopted.**

**May 26, 2006**  
**2006-2384-EBA**  
**06/09**

**Enrolled Bill Amendment to SB 250**

The Committee on Enrolled Bills to which was referred SB 250

AN ACT relative to lead paint poisoning prevention.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

## FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to SB 250**

This enrolled bill amendment corrects a statutory reference and makes a technical correction.

**Enrolled Bill Amendment to SB 250**

Amend section 1 of the bill by replacing line 1 with the following:

1 Reference Deleted. Amend RSA 130-A:2, I(c) to read as follows:

Amend section 3 of the bill by replacing line 5 with the following:

order, *served by the commissioner*, is not followed *or a fine imposed by the commissioner is not*

**Adopted.**

**May 22, 2006**  
**2006-2374-EBA**  
**04/09**

**Enrolled Bill Amendment to SB 251**

The Committee on Enrolled Bills to which was referred SB 251

AN ACT relative to the enforcement authority of the division of safety services.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

## FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to SB 251**

This enrolled bill amendment inserts a contingency provision changing a statutory reference and adding text to reflect changes made in HB 298 of the 2006 legislative session, if HB 298 becomes law.

**Enrolled Bill Amendment to SB 251**

Amend the bill by replacing all after section 2 with the following:

3 Navigation; Enforcement Powers. RSA 270:12-a, I(b) is repealed and reenacted to read as follows:

(b) The provisions of RSA 265-A, relative to the operation or attempted operation of boats by a person under the influence of intoxicating liquor or a controlled drug or other unlawful operation of boats thereunder;

4 Contingency. If HB 298 of the 2006 legislative session is enacted into law, section 3 of this act shall take effect on January 1, 2007 and section 26 of HB 298 shall not take effect. If HB 298 of the 2006 legislative session does not become law, section 3 of this act shall not take effect and section 26 of HB 298 shall take effect January 1, 2007.

5 Effective Date.

I. Section 3 of this act shall take effect as provided in section 4 of this act.

II. The remainder of this act shall take effect July 1, 2006.

**Adopted.**

**May 18, 2006**  
**2006-2321-EBA**  
**06/10**

### **Enrolled Bill Amendment to SB 252**

The Committee on Enrolled Bills to which was referred SB 252

AN ACT relative to certification of speech-language assistants for purposes of speech language pathology practice.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

### **FOR THE COMMITTEE**

### **Explanation to Enrolled Bill Amendment to SB 252**

This enrolled bill amendment makes grammatical corrections.

### **Enrolled Bill Amendment to SB 252**

Amend RSA 326-F:1, II-a as inserted by section 1 of the bill by replacing line 1 with the following:

II-a. "Speech-language assistant" means any person certified by the board who meets

**Adopted.**

**May 22, 2006**  
**2006-2375-EBA**  
**03/09**

### **Enrolled Bill Amendment to SB 262**

The Committee on Enrolled Bills to which was referred SB 262

AN ACT establishing the position of an administrator of women offenders and family services within the department of corrections, and establishing an interagency coordinating council on women offenders, and making an appropriation therefor.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

### **FOR THE COMMITTEE**

### **Explanation to Enrolled Bill Amendment to SB 262**

This enrolled bill amendment amends the title of the bill to reflect the contents of the bill and makes typographical and grammatical corrections.

**Enrolled Bill Amendment to SB 262**

Amend the title of the bill by replacing it with the following:

AN ACT establishing the position of an administrator of women offenders and family services within the department of corrections and establishing an interagency coordinating council on women offenders.

Amend RSA 21-H:14-b, II(e) as inserted by section 1 of the bill by replacing line 5 with the following:

make recommendations to the commissioner regarding women offender supervision and services,

Amend RSA 21-H:14-c, II(b) as inserted by section 1 of the bill by replacing line 2 with the following:

attending to the duties of the council.

Amend RSA 21-H:14-c, III(f) as inserted by section 1 of the bill by replacing line 1 with the following:

(f) Assess the impact of incarceration on family relations during and after incarceration.

Amend RSA 21-H:14-c, III(g) as inserted by section 1 of the bill by replacing line 1 with the following:

(g) Apply for and administer federal and private sector grants for the furtherance of the

Amend RSA 21-H:14-c, IV as inserted by section 1 of the bill by replacing line 5 with the following:

the chairperson when deemed necessary by the chairperson.

Amend RSA 21-H:14-c, V as inserted by section 1 of the bill by replacing line 2 with the following:

coterminous with his or her term in office. The terms of the remaining members shall be for 3 years.

**Adopted.**

**May 22, 2006**

**2006-2319-EBA**

**05/01**

**Enrolled Bill Amendment to SB 284-FN**

The Committee on Enrolled Bills to which was referred SB 284-FN

AN ACT establishing a third full-time justice position in the Manchester, Nashua, and Concord District Courts and equalizing the annual salaries of all justices of the Manchester, Nashua, and Concord District Courts.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to SB 284-FN**

This enrolled bill amendment corrects the title of the bill to reflect its contents after the house divided the question on the adoption of the bill as amended by the senate.

**Enrolled Bill Amendment to SB 284-FN**

Amend the title of the bill by replacing it with the following:

AN ACT establishing a third full-time justice position in the Manchester, Nashua, and Concord District Courts.

**Adopted.**

**June 1, 2006**

**2006-2398-EBA**

**08/10**

**Enrolled Bill Amendment to SB 287-FN**

The Committee on Enrolled Bills to which was referred SB 287-FN

AN ACT making certain changes to the eminent domain statute and establishing a committee to study eminent domain issues.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE****Explanation to Enrolled Bill Amendment to SB 287-FN**

This enrolled bill amendment amends the title of the bill to reflect its contents, removes bill sections which duplicate changes made in the bill, and makes technical corrections.

**Enrolled Bill Amendment to SB 287-FN**

Amend the title of the bill by replacing it with the following:

AN ACT making certain changes to eminent domain statutes.

Amend RSA 205:3-b, II as inserted by section 9 of the bill by replacing line 1 with the following:

II. Except as provided in subparagraphs I(b) and (d) of this section, public use shall not

Amend RSA 498-A:1, I as inserted by section 10 of the bill by replacing line 2 with the following:

procedure to govern all condemnations of property for public [~~purposes~~] **uses** including the review of

Amend RSA 498-A:5, II(e) as inserted by section 12 of the bill by replacing lines 1 and 2 with the following:

(e) A brief description of the purpose of the condemnation [~~and~~], the need therefor, **and the public use to which the real property will be put**;

Amend the bill by deleting section 24 and renumbering the original sections 25-28 to read as 24-27, respectively.

Amend the bill by deleting renumbered sections 25-26 and renumbering section 27 to read as 25.

**Adopted.**

**May 22, 2006**

**2006-2380-EBA**

**06/10**

**Enrolled Bill Amendment to SB 295-FN**

The Committee on Enrolled Bills to which was referred SB 295-FN

AN ACT relative to registration of business entities.



Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to SB 295-FN**

This enrolled bill amendment incorporates changes made to an RSA section by 2006, 81 (HB 1227-FN).

**Enrolled Bill Amendment to SB 295-FN**

Amend RSA 304-C:81, I(d) as inserted by section 14 of the bill by replacing line 3 with the following:  
year, an additional late filing fee in the amount of \$50; [and] upon receipt for filing

**Adopted.**

**May 18, 2006**  
**2006-2322-EBA**  
**04/09**

**Enrolled Bill Amendment to SB 323**

The Committee on Enrolled Bills to which was referred SB 323  
AN ACT establishing a legislative youth advisory council.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to SB 323**

This enrolled bill amendment inserts a contingency renumbering an RSA chapter to avoid duplicate numbering with HB 1722-FN.

**Enrolled Bill Amendment to SB 323**

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Contingency. If HB 1722-FN of the 2006 legislative session becomes law, RSA 19-J as inserted by section 1 of this act shall be renumbered as RSA 19-K and the reference to RSA 19-J:5 in RSA 6:12, I(b)(248) as inserted by section 2 of this act shall be renumbered as RSA 19-K:5.

**Adopted.**

**May 24, 2006**  
**2006-2331-EBA**  
**08/10**

**Enrolled Bill Amendment to SB 325**

The Committee on Enrolled Bills to which was referred SB 325  
AN ACT making technical corrections and other changes to motor vehicle laws.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to SB 325**

This enrolled bill amendment incorporates an addition to an RSA section made by 2006, 108 (HB 1749-FN).

This enrolled bill amendment also inserts a contingency to incorporate changes made by HB 1243-FN of the 2006 legislative session.

**Enrolled Bill Amendment to SB 325**

Amend section 12 of the bill by inserting after line 14 the following:

III-b. A corporation that is operating under an active DD Form 441 Department of Defense Security Agreement and has a facility located within the state may request that the commissioner grant a waiver to the corporation that would permit it to obtain the name and address of the owner of any motor vehicle that is on or adjacent to the corporation's property within the state of New Hampshire. The corporation shall only use information received under this paragraph for security purposes. The commissioner may grant or renew the waiver for any period up to one year. During the period when the waiver is valid, the police department of jurisdiction shall, upon request, provide to the corporation's security operations center supervisor, or equivalent person, the name and address of the owner of any motor vehicle on or adjacent to the corporation's property within the state of New Hampshire.

Amend the bill by replacing all after section 15 with the following:

16 Registration Required. RSA 261:40 is repealed and reenacted to read as follows:

261:40 Registration Required. Except as otherwise provided, it is a violation for any person to drive or any owner or custodian to knowingly permit or cause to be driven on the ways of this state any vehicle which is not specifically exempt by statute or rule from the requirement of registration, unless the same has been registered and the appropriate fee paid in accordance with the provisions of this chapter. The fine for a violation of this section shall be \$72.

17 Contingency. If HB 1243-FN of the 2006 legislative session becomes law, section 16 of this act shall take effect at 12:01 a.m. on the day one day after the passage of the state operating budget for the biennium ending June 30, 2009. If HB 1243-FN does not become law, section 16 of this act shall not take effect.

18 Effective Date.

I. Section 16 of this act shall take effect as provided in section 17 of this act.

II. The remainder of this act shall take effect 60 days after its passage.

**Adopted.**

**May 25, 2006**

**2006-2382-EBA**

**05/01**

**Enrolled Bill Amendment to SB 352-FN**

The Committee on Enrolled Bills to which was referred SB 352-FN AN ACT relative to the regulation of real estate appraisers.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE****Explanation to Enrolled Bill Amendment to SB 352-FN**

This enrolled bill amendment makes a grammatical correction.

**Enrolled Bill Amendment to SB 352-FN**

Amend RSA 310-B:2, II as inserted by section 2 of this act by replacing line 6 with the following:

market information. *Nothing in this paragraph shall be interpreted to affect the right of any*

**Adopted.**

**June 1, 2006**  
**2006-2399-EBA**  
**03/01**

**Enrolled Bill Amendment to SB 359-FN**

The Committee on Enrolled Bills to which was referred SB 359-FN  
AN ACT relative to the regulation of plumbers and water treatment  
technicians by the plumbers' board.

Having considered the same, report the same with the following  
amendment, and the recommendation that the bill as amended ought  
to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to SB 359-FN**

This enrolled bill amendment inserts an omitted word and makes a  
punctuation correction.

**Enrolled Bill Amendment to SB 359-FN**

Amend RSA 329-A:9-a, III as inserted by section 9 of the bill by replac-  
ing lines 3-6 with the following:  
installs, maintains, or repairs water treatment systems, provided the  
entity designates one employee certified under this chapter who is re-  
sponsible for the entity's compliance with this chapter and the rules  
adopted by the board. Within 30 days after termination of employment  
of such employee by such entity, he or she shall give notice thereof to  
the board and, if no other employee *is* certified under

**Adopted.**

**May 24, 2006**  
**2006-2378-EBA**  
**03/01**

**Enrolled Bill Amendment to SB 386**

The Committee on Enrolled Bills to which was referred SB 386  
AN ACT relative to large groundwater withdrawals.

Having considered the same, report the same with the following  
amendment, and the recommendation that the bill as amended ought  
to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to SB 386**

This enrolled bill amendment makes grammatical corrections.

**Enrolled Bill Amendment to SB 386**

Amend RSA 485-C:21, V-c(a)(3) as inserted by section 5 of the bill by  
replacing line 3 with the following:  
*indicating that the reduction in flow has resulted in the inabil-  
ity to meet his or her water*

Amend RSA 485-C:21, V-c(j) as inserted by section 5 of the bill by replac-  
ing line 3 with the following:  
*causing the contamination of an aquifer or contributing to the  
spread of any existing*

**Adopted.**

**May 31, 2006**  
**2006-2389-EBA**  
**06/09**

**Enrolled Bill Amendment to SB 388**

The Committee on Enrolled Bills to which was referred SB 388  
AN ACT relative to farm composting and pesticides.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to SB 388**

This enrolled bill amendment renumbers a subparagraph to avoid a numbering conflict with 2006, 11(HB 331) and makes a technical correction.

**Enrolled Bill Amendment to SB 388**

Amend RSA 21:34-a, II(b)(7) as inserted by section 1 of the bill by replacing line 1 with the following:

*(8) The production and storage of compost and the materials necessary to*

Amend section 2 of the bill by replacing line 1 with the following:  
2 Pesticides. Amend RSA 430:31, IV(x) to read as follows:

**Adopted.**

**May 22, 2006**  
**2006-2373-EBA**  
**05/09**

**Enrolled Bill Amendment to SB 391-FN**

The Committee on Enrolled Bills to which was referred SB 391-FN  
AN ACT relative to insurance third party administrators.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to SB 391-FN**

This enrolled bill amendment corrects a section heading and inserts a gender neutral reference.

**Enrolled Bill Amendment to SB 391-FN**

Amend section 4 of the bill by replacing line 1 with the following:

4 Third Party Administrators; Approval of Advertising. Amend RSA 402-H:5 to read as

Amend RSA 402-H:11, I as inserted by section 8 of the bill by replacing line 1 with the following:

I. No person shall act as, or offer to act as, or hold himself *or herself* out to be an administrator in this

**Adopted.**

**May 31, 2006**  
**2006-2386-EBA**  
**04/09**

**Enrolled Bill Amendment to SB 394**

The Committee on Enrolled Bills to which was referred SB 394

AN ACT establishing the Trust Modernization and Competitiveness Act.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

### FOR THE COMMITTEE

#### **Explanation to Enrolled Bill Amendment to SB 394**

This enrolled bill amendment makes grammatical and technical corrections to the bill.

#### **Enrolled Bill Amendment to SB 394**

Amend RSA 383:9-d, II(a) as inserted by section 2 of the bill by replacing line 2 with the following:

***prepared in accordance with RSA 384:43, III(a) and (b), and a fiduciary audit conforming to***

Amend section 27 of the bill by replacing line 1 with the following:

27 Trust Companies; Certificate of Organization. RSA 392:18 is repealed and reenacted to read as follows:

Amend RSA 392:25, VIII as inserted by section 33 of the bill by replacing line 1 with the following:

VIII. In calculating compliance with the investment limits set forth in paragraph VII, a

Amend section 38 of the bill by replacing line 1 with the following:

38 Trust Companies; Treasurer. RSA 392:31 is repealed and reenacted to read as follows:

Amend section 45 of the bill by replacing lines 1-4 with the following:

45 New Subdivision; Family Fiduciary Services Companies. Amend RSA 392 by inserting after section 40 the following new subdivision:

Family Fiduciary Services Companies

392:40-a Definitions; Exemption From Certain Laws.

Amend section 45 of the bill by replacing lines 7- 8 with the following: under RSA 392:40-b, I(e) requesting an exemption from certain provisions of this chapter pursuant to RSA 392:40-a, III.

Amend section 45 of the bill by replacing line 34 with the following: was organized or operated for the purpose of evading the limitations of RSA 392:40-a, I.

Amend section 45 of the bill by replacing line 72 with the following:

392:40-b Requirements to Apply for and Maintain Status as a Family Fiduciary Services

Amend section 45 of the bill by replacing line 75 with the following: requesting an exemption from the provisions of this chapter pursuant to RSA 392:40-a shall file an

Amend section 45 of the bill by replacing line 86 with the following: determines whether the individuals are family members under RSA 392:40-a, I(b). The designated

Amend section 45 of the bill by replacing lines 120-121 with the following: family fiduciary services company has violated any of the requirements of RSA 392:40-a through RSA 392:40-c or fails to meet any condition or limitation on which an exemption from the provisions

Amend section 45 of the bill by replacing line 144 with the following:

392:40-c Conversion to Nondepository Public Trust Company Transacting Business With the

Amend section 45 of the bill by replacing line 149 with the following: applicable to the family fiduciary services company pursuant to RSA 392:40-a shall cease to apply once

Amend section 45 of the bill by replacing line 168 with the following: previously had been exempted pursuant to RSA 392:40-a. Such determination shall be based on the

Amend RSA 564-B:7-703(i) as inserted by section 57 of the bill by replacing line 6 with the following: cotrustee or other fiduciary designated by the terms of the trust to perform his or her duties as a trustee or

Amend RSA 564-B:8-802(f) as inserted by section 61 of the bill by replacing lines 1-2 with the following:

(f) The following transactions, if fairly priced and in accordance with the interest of the beneficiaries and the purposes of the trust, are not presumed to be affected by a conflict between the

Amend RSA 564-B:8-813(k) as inserted by section 64 of the bill by replacing lines 12-13 with the following:

shall affect the limitation on the liability of the excluded fiduciary provided by RSA 564-B:12-1206 and RSA 564-B:12-1207.

Amend RSA 564-C:1-104(h)(4)(B)-(C) as inserted by section 68 of the bill by replacing them with the following:

(B) the beneficiary or a person who may represent and bind the beneficiary under the provisions of article 3 of RSA 564-B or the person who has the rights of a qualified beneficiary receives actual notice; or

(C) the beneficiary or a person who may represent and bind the beneficiary under the provisions of article 3 of RSA 564-B or the person who has the rights of a qualified beneficiary consents in writing to the proposed action either before or after the action is taken.

**Adopted.**

**June 1, 2006**  
**2006-2394-EBA**  
**03/09**

### **Enrolled Bill Amendment to HB 37-FN**

The Committee on Enrolled Bills to which was referred HB 37-FN

AN ACT relative to health insurance coverage for full-time students on medical leaves of absence.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

### **FOR THE COMMITTEE**

### **Explanation to Enrolled Bill Amendment to HB 37-FN**

This enrolled bill amendment corrects a reference in the bill and makes a technical correction.

### **Enrolled Bill Amendment to HB 37-FN**

Amend RSA 415:18, V(b) as inserted by section 3 of the bill by replacing line 1 with the following:

*(b) If the coverage for dependent children under paragraph IV includes*

Amend RSA 415:18, V(b) as inserted by section 3 of the bill by replacing line 12 with the following:

*date the insurance coverage under this subparagraph commences.*

**Adopted.**

**June 1, 2006**

**2006-2397-EBA**

**06/01**

### **Enrolled Bill Amendment to HB 76**

The Committee on Enrolled Bills to which was referred HB 76

AN ACT relative to distribution of state aid to charter schools; relative to establishing the 21<sup>st</sup> century scholars program and making an appropriation therefor; and relative to funding for charter schools.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

### **FOR THE COMMITTEE**

#### **Explanation to Enrolled Bill Amendment to HB 76**

This enrolled bill amendment amends the title of the bill to accurately reflect the contents of the bill and makes a technical correction.

### **Enrolled Bill Amendment to HB 76**

Amend the title of the bill by replacing it with the following:

AN ACT relative to distribution of state aid to charter schools and relative to funding for charter schools.

Amend section 2 of the bill by replacing line 1 with the following:

2 State Aid; Education Trust Fund. Amend the introductory paragraph of RSA 198:39, I to

**Adopted.**

**May 24, 2006**

**2006-2372-EBA**

**05/01**

### **Enrolled Bill Amendment to HB 298**

The Committee on Enrolled Bills to which was referred HB 298

AN ACT relative to consolidating statutes relating to driving while intoxicated.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

### **FOR THE COMMITTEE**

#### **Explanation to Enrolled Bill Amendment to HB 298**

This enrolled bill amendment makes technical corrections.

### **Enrolled Bill Amendment to HB 298**

Amend RSA 265-A:24, II as inserted by section 1 of the bill by replacing line 2 with the following:

system, or who refuses to take a test to determine his or her alcohol concentration, shall be placed

Amend RSA 21-P:14, IV(j)-(k) as inserted by section 5 of the bill by replacing them with the following:

(j) Suspension or revocation of a driver's license or driving privilege, as authorized by RSA ~~[263:53-66]~~ **263:53 through RSA 263:65**, ~~[and]~~ RSA 263:73, **RSA 265-A:26, and RSA 265-A:29.**

(k) Appeals of driver's license denial, suspension, or revocation, as authorized by RSA 263:75, **RSA 265-A:34**, and RSA 263:76.

Amend section 18 of the bill by replacing line 1 with the following:  
18 References Changed. Amend RSA 262:23, III to read as follows:

**Adopted.**

**June 5, 2006**

**2006-2403-EBA**

**04/09**

### **Enrolled Bill Amendment to HB 656-FN**

The Committee on Enrolled Bills to which was referred HB 656-FN

AN ACT relative to medical decision making for those adults without capacity to make health care decisions for themselves and establishing procedures for Do Not Resuscitate Orders.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

### **FOR THE COMMITTEE**

#### **Explanation to Enrolled Bill Amendment to HB 656-FN**

This enrolled bill amendment inserts text which is current law and which was unintentionally omitted from RSA 153-A:20, II as amended by section 3 of the bill; corrects a subparagraph number; and makes a technical correction.

### **Enrolled Bill Amendment to HB 656-FN**

Amend RSA 153-A:20, II as inserted by section 3 of the bill by replacing it with the following:

II. Protocols approved and issued by the emergency medical services medical control board for provision of emergency medical care, which shall address living wills established under RSA ~~[137-H]~~ **137-J**, durable powers of attorney for health care established under RSA 137-J, and patient-requested, physician generated orders relative to resuscitation. Notwithstanding RSA 541-A:12, III, the department may incorporate by reference into such rules protocols pertaining solely to medical and pharmaceutical patient care processes issued by the emergency medical services board and approved by the commissioner.

Amend section 4 of the bill by replacing lines 1-2 with the following:

4 Guardians; Reference Change. Amend RSA 464-A:25, I(e) to read as follows:

(e) If a ward has previously executed a valid living will, under RSA ~~[137-H]~~ **137-J**, a

Amend section 5 of the bill by replacing line 1 with the following:

5 Jurisdiction; Reference Change. Amend RSA 547:3, I(j) to read as follows:

**Adopted.**



**May 16, 2006**  
**2006-2258-EBA**  
**04/10**

**Enrolled Bill Amendment to HB 690-FN**

The Committee on Enrolled Bills to which was referred HB 690-FN

AN ACT relative to aid to the needy blind to undue hardship for public assistance, and to eligibility for and recovery of public assistance.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 690-FN**

This enrolled bill amendment makes grammatical corrections to the title of the bill.

**Enrolled Bill Amendment to HB 690-FN**

Amend the title of the bill by replacing it with the following:

AN ACT relative to aid to the needy blind, undue hardship for public assistance, and eligibility for and recovery of public assistance.

**Adopted.**

**June 6, 2006**  
**2006-2408-EBA**  
**05/09**

**Enrolled Bill Amendment to HB 1126**

The Committee on Enrolled Bills to which was referred HB 1126

AN ACT relative to licenses for first mortgage bankers, brokers, pawn-brokers, and money lenders and relative to licensing of money transmitters.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1126**

This enrolled bill amendment makes technical corrections.

**Enrolled Bill Amendment to HB 1126**

Amend section 5 of the bill by replacing lines 1 and 2 with the following:  
5 Licensing of Sales Finance Companies and Retail Sellers Required.  
Amend the introductory paragraph of RSA 361-A:2, II(a) and RSA 361-A:2, II(a)(1) to read as follows:

Amend RSA 399-G:1, V(d) as inserted by section 35 of the bill by replacing it with the following:

(d) In the case of an owner that is a limited liability company (LLC):

(1) Those members that have the right to receive upon dissolution, or have contributed, 25 percent or more of the LLC's capital; and

(2) If managed by elected managers, all elected managers; and

**Adopted.**

**May 26, 2006**  
**2006-2383-EBA**  
**06/01**

**Enrolled Bill Amendment to HB 1146**

The Committee on Enrolled Bills to which was referred HB 1146  
AN ACT establishing a commission to study certain energy and environmental issues.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1146**

This enrolled bill amendment corrects the title of the bill to accurately reflect the contents of the bill.

**Enrolled Bill Amendment to HB 1146**

Amend the title of the bill by replacing it with the following:  
AN ACT establishing a state energy policy commission.

**Adopted.**

**May 18, 2006**  
**2006-2328-EBA**  
**08/10**

**Enrolled Bill Amendment to HB 1167-FN-A**

The Committee on Enrolled Bills to which was referred HB 1167-FN-A  
AN ACT relative to the department of transportation pilot program for effective investment of state highway mitigation funds and making an appropriation to the land and community heritage investment program.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1167-FN-A**

This enrolled bill amendment corrects the effective date of the bill.

**Enrolled Bill Amendment to HB 1167-FN-A**

Amend section 4 of the bill by replacing line 2 with the following:  
I. Sections 1 and 2 of this act shall take effect upon its passage.

**Adopted.**

**June 2, 2006**  
**2006-2402-EBA**  
**04/01**

**Enrolled Bill Amendment to HB 1194**

The Committee on Enrolled Bills to which was referred HB 1194  
AN ACT relative to job protection for firefighters, rescue workers, and emergency medical personnel, and relative to health insurance claim review and the qualifications and responsibilities of a medical director.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

## FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to HB 1194**

This enrolled bill amendment corrects the title of the bill to accurately reflect its contents and makes technical corrections.

**Enrolled Bill Amendment to HB 1194**

Amend the title of the bill by replacing it with the following:

AN ACT relative to job protection for firefighters, rescue workers, and emergency medical personnel, and relative to health insurance claim review.

Amend RSA 415-A:4-b, V(a)(6)-(8) as inserted by section 3 of the bill by replacing them with the following:

~~(6) [If the claim denial is based on a medical necessity or experimental treatment or similar exclusion or limit, either an explanation of the scientific or clinical judgment for the denial, applying the terms of the plan to the claimant's medical circumstances, or a statement that such explanation will be provided free of charge upon request;~~

~~(7)] The following statement: "You and your plan may have other voluntary alternative dispute resolution options, such as mediation. One way to find out what may be available is to contact your local U.S. Department of Labor Office and your state insurance regulatory agency;" and~~

~~[(8)] (7) A statement describing the claimant's right to contact the insurance commissioner's office for assistance which shall include a toll-free telephone number and address of the commissioner.~~

**Adopted.**

**May 30, 2006**

**2006-2387-EBA**

**08/10**

**Enrolled Bill Amendment to HB 1238-FN**

The Committee on Enrolled Bills to which was referred HB 1238-FN

AN ACT relative to centralized voter registration database information and relative to interference with campaign communications.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

## FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to HB 1238-FN**

This enrolled bill amendment incorporates changes made to an RSA section in the bill by 2006, 94:1 (HB 391).

**Enrolled Bill Amendment to HB 1238-FN**

Amend the bill by replacing section 3 with the following:

3 Right to Know Exemption; Public Information; Mailing Address.  
Amend RSA 654:31-a to read as follows:

654:31-a Right to Know Exemption. The information contained on the checklist of a town or city, specifically, the name, street address, **mailing address**, town or city, and party affiliation, if any, of registered voters, except as otherwise provided by statute, is public information subject to RSA 91-A. All other information on the voter registration form, absentee registration affidavit, citizenship and domicile affidavits, and application for absentee ballot shall be treated as confidential information and the records containing this information shall be exempt from

the public disclosure provisions of RSA 91-A, except as provided by statutes other than RSA 91-A. Notwithstanding the foregoing, citizenship and domicile affidavits are public records subject to RSA 91-A for the sole purpose of challenging an individual registering to vote or voting, challenging ballots to be recounted, to the extent that such ballot challenges are specifically authorized by law, or determining the accuracy of any citizenship or domicile affidavit. Election officials and law enforcement personnel in furtherance of their official duties may access and may disclose information from the voter registration form, citizenship and domicile affidavits, absentee registration affidavits, and applications for absentee ballots, if necessary to resolve a challenge to an individual registering to vote or voting, or if necessary to investigate or prosecute election law violations or any crime. Law enforcement access and use of such records for the investigation or prosecution of crimes unrelated to election law violations shall be limited to the records of the specific individuals who are the subject of the investigation or prosecution.

**Adopted.**

**May 24, 2006**

**2006-2230-EBA**

**04/10**

### **Enrolled Bill Amendment to HB 1243-FN**

The Committee on Enrolled Bills to which was referred HB 1243-FN AN ACT reducing certain fines for motor vehicle violations.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

### **FOR THE COMMITTEE**

#### **Explanation to Enrolled Bill Amendment to HB 1243-FN**

This enrolled bill amendment incorporates the fine reductions required by this bill into HB 298 of the 2006 legislative session in the event HB 298 becomes law.

### **Enrolled Bill Amendment to HB 1243-FN**

Amend the bill by replacing all after section 29 with the following:

30 Penalties for Aggravated Intoxication or Under the Influence of Drugs Offenses. Amend RSA 265-A:18, I(b)(2) to read as follows:

(2) Fined not less than [~~\$750~~] **\$500**;

31 Penalties for Subsequent Intoxication or Under the Influence of Drugs Offenses. Amend RSA 265-A:18, IV(a)(2) to read as follows:

(2) The person shall be fined not less than [~~\$750~~] **\$500**.

32 Transporting Alcoholic Beverages. Amend RSA 265-A:44, IV to read as follows:

IV. A person who violates this section shall be guilty of a violation [~~and shall be subject to a fine of \$150~~]. In addition, a person who violates paragraph II of this section may have his or her drivers' license, if a resident, or driving privilege, if a nonresident, suspended 60 days for a first offense and up to one year for a second or subsequent offense.

33 Contingency. If HB 298 of the 2006 legislative session becomes law, sections 20, 21, and 22 of this act shall not take effect and sections 30, 31, and 32 of this act shall take effect one day after the passage of the state operating budget for the biennium ending June 30, 2009. If HB 298 does not become law, sections 30, 31, and 32 of this act shall not take effect and sections 20, 21, and 22 of this act shall take effect one day after the passage of the state operation budget for the biennium ending June 30, 2009.

34 Effective Date.

I. Sections 20, 21, 22, 30, 31, and 32 of this act shall take effect as provided in section 33 of this act.

II. Section 33 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect one day after the passage of the state operating budget for the biennium ending June 30, 2009.

**Adopted.**

**May 31, 2006**  
**2006-2390-EBA**  
**08/09**

**Enrolled Bill Amendment to HB 1315**

The Committee on Enrolled Bills to which was referred HB 1315

AN ACT relative to the definition and classification of dams and relative to the acceptance of Jericho Lake dam and dike in Berlin.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1315**

This enrolled bill amendment changes the title of the bill to reflect its contents.

**Enrolled Bill Amendment to HB 1315**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the definition and classification of dams, the acceptance of Jericho Lake dam and dike in Berlin, the fish and game department's acquisition of property rights to Big Brook Bog dam in Pittsburg, and the study of potential sources of funding for the repair and maintenance of dams by the state.

**Adopted.**

**June 5, 2006**  
**2006-2406-EBA**  
**08/10**

**Enrolled Bill Amendment to HB 1331**

The Committee on Enrolled Bills to which was referred HB 1331

AN ACT relative to the New Hampshire Temporary Assistance to Needy Families (TANF) program and making an appropriation therefor.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1331**

This enrolled bill amendment corrects a reference to a provision amended in the bill, renumbers an RSA paragraph for grammatical purposes, and makes technical corrections.

**Enrolled Bill Amendment to HB 1331**

Amend section 5 of the bill by replacing lines 1 and 2 with the following:

5 Definition of Specialized Services Replaced with Definition of Interim Activities. RSA 167:78, XXII is repealed and reenacted to read as follows:

Amend RSA 167:82, II, (i)-(j) as inserted by section 8 of the bill by replacing them with the following:

(i) A person with significant employment-related barriers, as determined by the department by rules adopted pursuant to RSA 541-A, that prevent the person from accepting immediate employment.

(j) Any other person as determined by the department by rules adopted pursuant to RSA 541-A as necessary to promote the purpose and goals of this subdivision.

Amend RSA 167:85, V as inserted by section 14 of the bill by replacing line 1 with the following:

V. A person temporarily exempted under RSA 167:82, II may participate in the employment

Amend RSA 167:91, I as inserted by section 16 of the bill by replacing it with the following:

I.(a) Each participant less than 20 years of age, who is not enrolled in school and who does not have a general education diploma (GED) or a high school diploma (HSD) shall:

(1) Actively pursue an education designed to prepare such person to qualify for a high school equivalency diploma; or

(2) Enroll in school to pursue a high school diploma.

(b) Each participant required to pursue an education under subparagraph I(a) and who is unable to obtain a GED or HSD in a specified period of time may participate in activities intended to enhance basic literacy and work skills.

(c) A participant shall be permitted to volunteer to participate under paragraphs I and II as funding and resources permit.

Amend section 19 of the bill by replacing line 6 with the following: adopted under RSA 167.

**Adopted.**

**May 22, 2006**

**2006-2361-EBA**

**05/01**

### **Enrolled Bill Amendment to HB 1335**

The Committee on Enrolled Bills to which was referred HB 1335

AN ACT relative to the authority of law enforcement officers during a state of emergency and prohibiting the taking of arms and ammunition in a declared state of emergency.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

### **FOR THE COMMITTEE**

### **Explanation to Enrolled Bill Amendment to HB 1335**

This enrolled bill amendment deletes sections that are identical to those inserted by 2006, 124 (SB 348) and amends the title of the bill to accurately reflect its contents.

### **Enrolled Bill Amendment to HB 1335**

Amend the title of the bill by replacing it with the following:

AN ACT relative to the authority of law enforcement officers during a state of emergency.

Amend the bill by deleting sections 2 and 3 and renumbering the original section 4 to read as 2.

**Adopted.**

**June 1, 2006**  
**2006-2396-EBA**  
**04/01**

**Enrolled Bill Amendment to HB 1343**

The Committee on Enrolled Bills to which was referred HB 1343

AN ACT relative to the duties of the council on resources and development, and making bonded appropriations to the department of environmental services and the New Hampshire veterans' home.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1343**

This enrolled bill amendment makes a technical correction.

**Enrolled Bill Amendment to HB 1343**

Amend paragraph I of section 7 of the bill by replacing it with the following:

I. \$510,000 from the oil discharge and disposal cleanup fund established in RSA 146-D:3.

**Adopted.**

**May 24, 2006**  
**2006-2301-EBA**  
**08/01**

**Enrolled Bill Amendment to HB 1417-FN**

The Committee on Enrolled Bills to which was referred HB 1417-FN

AN ACT establishing gold star number plates and relative to special number plates for veterans.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1417-FN**

This enrolled bill amendment nullifies 2006, 53 (HB 1154) and inserts a new section to incorporate changes made to RSA 261:87-b by this bill and by HB 1154.

**Enrolled Bill Amendment to HB 1417-FN**

Amend the bill by replacing all after section 2 with the following:

3 Special Number Plates for Veterans. Amend RSA 261:87-b to read as follows:

261:87-b Special Number Plates for Veterans.

**I.** The director is hereby authorized to issue special number plates to be used on motor vehicles owned by veterans of the United States armed services, in lieu of other number plates. The design of these special plates shall be determined by the commissioner, and shall be distinct from the design or designs of those plates issued under RSA 261:86. Such plates shall be issued only to veterans as defined in RSA 21:50, I(a) upon appli-

cation, proof of veteran status in a form authorized by RSA 21:50, I(b), and payment of a one time \$25 fee to recover production and administrative costs that shall be in addition to the regular motor vehicle registration fee and any other number plate fees otherwise required. The director shall also issue such plates to any person providing proof of honorable discharge from the armed services of any nation allied with the United States during World War II and proof of such person's service during World War II. Renewals of such special number plates shall be charged the fee assessed for standard motor vehicles as prescribed under RSA 261:141. The plates furnished pursuant to this section are non-transferable and shall expire upon the death of the veteran.

***II. For purposes of this section, a motor vehicle is owned by a veteran if the veteran is the motor vehicle's owner under RSA 259:72, I, or if the legal ownership of the motor vehicle is held by a trust established by the veteran and the veteran has use of the motor vehicle or the motor vehicle is used for the transportation of the veteran. The director shall establish the documentation required for a motor vehicle held in trust to be eligible for plates under this section. The director shall not issue more than one set of plates under this section to any trust. A trustee of the trust or the administrator of the estate may be fined up to \$500 for failing to return within 60 days of the death of the veteran any plates issued under this section for a motor vehicle held in trust.***

4 Nullification. 2006, 53 (HB 1154-FN) shall not take effect.

5 Effective Date.

I. Section 3 of this act shall take effect January 1, 2007.

II. Section 4 of this act shall take effect upon its passage.

III. The remainder of this act shall take effect 60 days after its passage.

**Adopted.**

**June 1, 2006**

**2006-2395-EBA**

**06/09**

### **Enrolled Bill Amendment to HB 1459-FN-A**

The Committee on Enrolled Bills to which was referred HB 1459-FN-A

**AN ACT** making an appropriation to the department of regional community-technical colleges for tuition maintenance; authorizing the temporary use of the department of regional community-technical colleges nonlapsing account for tuition maintenance; and making a bonded capital appropriation to the department of regional community-technical colleges for construction of a health education center nursing wing at the New Hampshire technical institute in Concord.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

### **FOR THE COMMITTEE**

#### **Explanation to Enrolled Bill Amendment to HB 1459-FN-A**

This enrolled bill amendment amends the title of the bill to accurately reflect its contents.



**Enrolled Bill Amendment to HB 1459-FN-A**

Amend the title of the bill by replacing it with the following:

AN ACT making an appropriation to the department of regional community-technical colleges for tuition maintenance; authorizing the temporary use of the department of regional community-technical colleges' nonlapsing account for tuition maintenance; and authorizing the use of the department of regional community-technical colleges' nonlapsing account for construction of a health education center nursing wing at the New Hampshire technical institute in Concord.

**Adopted.**

**May 24, 2006**  
**2006-2379-EBA**  
**06/10**

**Enrolled Bill Amendment to HB 1464-FN-A-LOCAL**

The Committee on Enrolled Bills to which was referred HB 1464-FN-A-LOCAL

AN ACT relative to mosquito control, establishing a mosquito control fund, making an appropriation therefor, and relative to a public health response to arbovirus.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to  
HB 1464-FN-A-LOCAL**

This enrolled bill amendment makes a technical correction.

**Enrolled Bill Amendment to HB 1464-FN-A-LOCAL**

Amend subparagraph I(m) of section 6 of the bill by replacing line 1 with the following:

(m) Two private citizens, each a landowner, one of whom shall be nominated by

**Adopted.**

**May 24, 2006**  
**2006-2381-EBA**  
**05/10**

**Enrolled Bill Amendment to HB 1672-FN**

The Committee on Enrolled Bills to which was referred HB 1672-FN

AN ACT relative to a registry for founded cases of abuse, neglect, or exploitation of incapacitated adults, relative to certain background checks, and establishing a task force relative to central registries.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to HB 1672-FN**

This enrolled bill amendment corrects paragraph references.

**Enrolled Bill Amendment to HB 1672-FN**

Amend RSA 161-F:49, II(d) as inserted by section 2 of the bill by replacing line 2 with the following:  
court in accordance with paragraph V.

Amend RSA 161-F:49, II(e) as inserted by section 2 of the bill by replacing line 2 with the following:  
registry pursuant to RSA 161-F:49, IX.

Amend RSA 161-F:49, X as inserted by section 2 of the bill by replacing line 1 with the following:

X. The department shall, in the notice it sends out pursuant to RSA 161-F:49, II(a), notify

**Adopted.**

**June 5, 2006**  
**2006-2404-EBA**  
**03/01**

**Enrolled Bill Amendment to HB 1474-FN**

The Committee on Enrolled Bills to which was referred HB 1474-FN

AN ACT relative to unemployment compensation contribution rates and benefits and establishing a commission to investigate the feasibility of merging the department of employment security into the department of labor.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE****Explanation to Enrolled Bill Amendment to HB 1474-FN**

This enrolled bill amendment incorporates a change to RSA 282-A:82 previously enacted by 2006, 130 and makes certain technical corrections.

**Enrolled Bill Amendment to HB 1474-FN**

Amend section 6 of the bill by replacing lines 1-2 with the following:

6 Chairperson. The members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named senate member. The first

Amend the bill by replacing all after section 8 with the following:

9 Minimum Rate. Amend RSA 282-A:2, II to read as follows:

II. The minimum contribution rate under this section shall be not less than ~~[-04]~~ **.10** percent.

10 Nullification; 2006, 130:10. The provisions of 2006, 130:10 shall not take effect.

11 Effective Date.

I. Section 1 of this act shall take effect July 1, 2007.

II. Section 2 of this act shall take effect July 1, 2006.

III. Section 9 of this act shall take effect January 1, 2007.

IV. The remainder of this act shall take effect upon its passage.

**Adopted.**

**May 30, 2006**  
**2006-2388-EBA**  
**05/10**

**Enrolled Bill Amendment to HB 1491**

The Committee on Enrolled Bills to which was referred HB 1491

AN ACT extending certain deadlines relating to the Great Bay Estuary Commission.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1491**

This enrolled bill amendment amends the title of the bill to reflect its contents.

**Enrolled Bill Amendment to HB 1491**

Amend the title of the bill by replacing it with the following:

AN ACT extending certain deadlines relative to the Great Bay Estuary Commission and the Estuary Alliance for Sewage Treatment, and establishing a commission to study the publicly owned treatment plant needs of New Hampshire and state laboratory water tests and fees.

**Adopted.**

**May 31, 2006**  
**2006-2393-EBA**  
**06/10**

**Enrolled Bill Amendment to HB 1574**

The Committee on Enrolled Bills to which was referred HB 1574

AN ACT relative to membership on the public employees deferred compensation commission and relative to criminal penalties for certain securities violations.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1574**

This enrolled bill amendment nullifies section 1 of this bill, which duplicates the change made in HB 716-FN of the 2006 legislative session, in the event HB 716-FN becomes law.

**Enrolled Bill Amendment to HB 1574**

Amend the bill by replacing all after section 2 with the following:

3 Contingency. If HB 716-FN of the 2006 legislative session becomes law, section 1 of this act shall not take effect.

4 Effective Date.

I. Section 1 of this act shall take effect as provided in section 3 of this act.

II. Section 2 of this act shall take effect 60 days after its passage.

III. The remainder of this act shall take effect upon its passage.

**Adopted.**

**May 22, 2006**  
**2006-2295-EBA**  
**06/01**

**Enrolled Bill Amendment to HB 1581**

The Committee on Enrolled Bills to which was referred HB 1581

AN ACT relative to drivers' licenses issued to persons under the age of 21.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1581**

This enrolled bill amendment makes a technical correction.

**Enrolled Bill Amendment to HB 1581**

Amend RSA 263:40 as inserted by section 1 of the bill by replacing line 8 with the following:

*of the applicant's date of birth, at which time the applicant shall be issued a traditional*

**Adopted.**

**May 31, 2006**  
**2006-2391-EBA**  
**06/09**

**Enrolled Bill Amendment to HB 1626-FN-A**

The Committee on Enrolled Bills to which was referred HB 1626-FN-A

AN ACT relative to appropriations for the expenses of certain departments of the state and establishing a quality early learning opportunity initiative and making an appropriation therefor.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1626-FN-A**

This enrolled bill amendment makes technical corrections and inserts a contingency provision to avoid a numbering conflict with SB 374 of the 2006 legislative session.

**Enrolled Bill Amendment to HB 1626-FN-A**

Amend section 17 of the bill by replacing line 5 with the following: parents are unable to afford the cost of quality, licensed child care. Sections 17-19 of this act are

Amend the bill by replacing section 20 with the following:

20 Contingency. If SB 374 of the 2006 legislative session becomes law, RSA 126-A:5, XIV as inserted by section 18 of this act shall be renumbered as RSA 126-A:5, XV.

21 Effective Date.

I. Sections 17-19 of this act shall take effect July 1, 2006.

II. The remainder of this act shall take effect upon its passage.

**Adopted.**

**June 6, 2006**  
**2006-2409-EBA**  
**03/01**

**Enrolled Bill Amendment to HB 1692-FN**

The Committee on Enrolled Bills to which was referred HB 1692-FN AN ACT establishing the New Hampshire sexual predators act.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1692-FN**

This enrolled bill amendment incorporates changes to the law previously enacted in 2006, 89 and 2006, 162 and makes grammatical and technical corrections.

**Enrolled Bill Amendment to HB 1692-FN**

Amend RSA 651-B:1, V(a) as inserted by section 2 of the bill by replacing line 2 with the following:

the offense, RSA 632-A:2, RSA 632-A:3, RSA 633:1, RSA 633:2, RSA 633:3, RSA 639:2, or RSA 645:2; or

Amend RSA 651-B:1, VIII as inserted by section 4 of the bill by replacing line 1 with the following:

VIII. Notwithstanding RSA 21:6-a, "residence" means a place where a person

Amend RSA 651-B:3, II as inserted by section 6 of the bill by replacing line 12 with the following:

system. This paragraph shall not apply to a sexual offender or offender against children who has moved to New Hampshire and has registered with a local law enforcement agency.

Amend RSA 651-B:4, I(a)(3) as inserted by section 7 of the bill by replacing line 5 with the following:

***vehicle make, model, color, and license tag number. A post office box shall not be provided in***

Amend the bill by replacing section 9 with the following:

9 Registration of Criminal Offenders; Duration of Registration. Amend RSA 651-B:6, III to read as follows:

III. Notwithstanding the provisions of paragraph II, any sexual offender or offender against children who is required to register as a result ***of a violation*** of more than one offense listed in RSA 651-B:1, III or RSA 651-B:1, V, or who is sentenced to an extended term of imprisonment pursuant to RSA 651:6, I(b) shall be registered for life.

Amend RSA 651-B:7, II(a)(1)-(4) as inserted by section 11 of the bill by replacing them with the following:

***(1) RSA 632-A:2, I(j).***

***(2) RSA 632-A:2, I(k).***

***[(1)](3) [Repealed.]***

***[(2)](4) [Repealed.]***

Amend RSA 651-B:7, IV(c) as inserted by section 11 of the bill by replacing line 3 with the following:

***by the agency pursuant to subparagraph IV(a) is residing in the community.***

Amend RSA 651-B:9, II as inserted by section 12 of the bill by replacing line 5 with the following:

***for an additional 10 years from the date of conviction for violating this paragraph. The***

Amend RSA 651-B:9, VII(a) as inserted by section 12 of the bill by replacing line 2 with the following:

***about the offender's noncompliance with the requirements of this chapter, and, if known,***

Amend RSA 651-B:11, II as inserted by section 13 of the bill by replacing lines 3-6 with the following:

commissioner. If such a request is made, the commissioner shall promptly schedule and conduct a hearing pursuant to rules adopted under RSA 541-A. At the hearing the offender shall have the burden to prove that the offender cannot afford to pay the fee because the offender is indigent. After hearing, the decision of the commissioner shall be final, and the offender shall have a right to appeal

Amend RSA 632-A:10-a, V(c) as inserted by section 16 of the bill by replacing line 1 with the following:

(c) Prior to granting any petition pursuant to subparagraph V(b), the court shall provide

Amend the bill by replacing section 18 with the following:

18 Sentences; Extended Term of Imprisonment. RSA 651:6, I(k)-(l) is repealed and reenacted to read as follows:

(k) Has committed or attempted to commit negligent homicide as defined in RSA 630:3, I against a person under 13 years of age who was in the care of, or under the supervision of, the defendant at the time of the offense;

(l) Has committed or attempted to commit any of the crimes defined in RSA 637 or RSA 638 against a victim who is 65 years of age or older or who has a physical or mental disability and that in perpetrating the crime, the defendant intended to take advantage of the victim's age or a physical or mental condition that impaired the victim's ability to manage his or her property or financial resources or to protect his or her rights or interests;

(m) Has committed or attempted to commit aggravated felonious sexual assault in violation of RSA 632-A:2, I(l) or RSA 632-A:2, II where the defendant was 18 years of age or older at the time of the offense;

(n) Has committed or attempted to commit aggravated felonious sexual assault in violation of RSA 632-A:2, III, and one or more of the acts comprising the pattern of sexual assault was an offense under RSA 632-A:2, I(l) or RSA 632-A:2, II, or both, and the defendant was 18 years of age or older when the pattern of sexual assault began;

(o) Has purposely, knowingly, or recklessly with extreme indifference to the value of human life committed an act or acts constituting first degree assault as defined in RSA 631:1 against a person under 13 years of age where the serious bodily injury has resulted in brain damage or physical disability to the child that is likely to be permanent; or

(p) Has committed murder as defined in RSA 630:1-b against a person under 13 years of age.

Amend RSA 651:6, IV as inserted by section 20 of the bill by replacing line 1 with the following:

IV. If authorized by subparagraphs I(m), (n), or (o) and if notice of the possible application of

Amend RSA 651:6, IV(c) as inserted by section 20 of the bill by replacing line 1 with the following:

(c) Any decision by the superior court under subparagraph (a) may be reviewed by the

Amend RSA 651:6, V as inserted by section 20 of the bill by replacing line 1 with the following:

V. If authorized by subparagraph I(p) and if notice of the possible application of this section

Amend section 21 of the bill by replacing lines 2-3 with the following: inserting after chapter 135-D the following new chapter:

### CHAPTER 135-E

#### INVOLUNTARY CIVIL COMMITMENT OF

Amend RSA 135-E:11, I as inserted by section 21 of the bill by replacing line 6 with the following:  
previous trial, unless the subsequent proceeding is continued in accordance with RSA 135-E:9, III.

Amend RSA 135-E:13 as inserted by section 21 of the bill by replacing lines 3-8 with the following:

commit acts of sexual violence if discharged, the commissioner or his or her designee shall notify the court and the court shall hold a hearing. The petition shall be served upon the court and the county attorney or attorney general. The court, upon receipt of such notice, shall schedule a hearing within 60 days, unless continued for good cause.

II. The county attorney or attorney general shall represent the state, and has the right to have the person examined by professionals of the county attorney's or attorney general's choice. The

Amend RSA 135-E:17 as inserted by section 21 of the bill by replacing line 3 with the following:

the county attorney or attorney general and the county attorney's or attorney general's employees; and

Amend RSA 135-E:18 as inserted by section 21 of the bill by replacing lines 2-3 with the following:

or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter which can be given effect without the invalid provisions or applications, and to this end the

Amend RSA 169-B:19, III-a(f) as inserted by section 24 of the bill by replacing line 4 with the following:

provided, the court retains jurisdiction over the case.

Amend the bill by replacing section 29 with the following:

29 Effective Date.

I. Sections 26, 27, and 29 of this act shall take effect upon its passage.

II. Section 2, RSA 651-B:3, II as inserted by section 6, RSA 651-B:7, II(a) as inserted by section 11, section 18, and RSA 651:6, IV-V as inserted by section 20 of this act shall take effect January 1, 2007, at 12:01 a.m.

III. The remainder of this act shall take effect January 1, 2007.

**Adopted.**

**May 22, 2006**  
**2006-2377-EBA**  
**03/01**

**Enrolled Bill Amendment to HB 1696-FN**

The Committee on Enrolled Bills to which was referred HB 1696-FN AN ACT relative to the cremation of human remains.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE**

**Explanation to Enrolled Bill Amendment to HB 1696-FN**

This bill changes certain references in the bill to make them consistent with other provisions in the bill and with current law.

**Enrolled Bill Amendment to HB 1696-FN**

Amend RSA 325-A:7, I as inserted by section 2 of the bill by replacing line 1 with the following:

I. The application for an initial or renewal license as a crematory authority shall include a fee

Amend RSA 325-A:8, IV as inserted by section 2 of the bill by replacing lines 5-7 with the following:

adjudication, it may, with the approval of the attorney general, petition governor and council to receive funds not otherwise appropriated in order to retain professional advisors in the proceeding.

(c) If the governor and council approve the use of funds not otherwise appropriated, the

Amend RSA 325-A:12, I(c) as inserted by section 2 of the bill by replacing line 1 with the following:

(c) Placement of the licensee on probation for a period not to exceed 2 years during which

Amend RSA 325-A:29 as inserted by section 2 of the bill by replacing line 4 with the following:

which contain more stringent requirements than those provided in this chapter.

**Adopted.**

**June 6, 2006**  
**2006-2407-EBA**  
**03/10**

**Enrolled Bill Amendment to HB 1697-FN**

The Committee on Enrolled Bills to which was referred HB 1697-FN

AN ACT relative to certain state salaries; establishing the position of director of homeland security and emergency management in the department of safety; authorizing the commissioner of safety to reorganize certain divisions, responsibilities, and activities of the department; relative to appeals of reclassification of positions; relative to a study of the unclassified salary schedule; and relative to the registration of apprentices by the board of barbering, cosmetology, and esthetics.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.



## FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to HB 1697-FN**

This enrolled bill amendment makes technical corrections.

**Enrolled Bill Amendment to HB 1697-FN**

Amend section 13 of the bill by replacing lines 5-6 with the following:

II Department of safety director of emergency services, communications, and management

Amend section 14 of the bill by replacing lines 5-7 with the following: management from the division of emergency services, communications, and management to the director of homeland security and emergency management, and transferring the bureau of emergency management from the division of emergency services, communications, and management

**Adopted.**

**May 18, 2006**  
**2006-2330-EBA**  
**08/09**

**Enrolled Bill Amendment to HB 1741-FN**

The Committee on Enrolled Bills to which was referred HB 1741-FN

AN ACT relative to reporting requirements concerning infections in hospitals.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

## FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to HB 1741-FN**

This enrolled bill amendment makes a grammatical correction and corrects subparagraph numbering.

**Enrolled Bill Amendment to HB 1741-FN**

Amend RSA 151:33, I(b) as inserted by section 1 of the bill by replacing line 2 with the following:

infected or was first diagnosed; and

Amend section 2 of the bill by replacing lines 2-3 with the following:

Amend RSA 151-G:1, II by inserting after subparagraph (c) the following new subparagraph:

(d) The state epidemiologist, department of health and human services.

**Adopted.**

**June 2, 2006**  
**2006-2400-EBA**  
**04/10**

**Enrolled Bill Amendment to HB 1744-FN-A**

The Committee on Enrolled Bills to which was referred HB 1744-FN-A

AN ACT authorizing the pari-mutuel commission to regulate games of chance conducted by charitable organizations and relative to tournaments conducted by charitable organizations where chips have no monetary face value.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to HB 1744-FN-A**

This enrolled bill amendment corrects the amending language in sections 6 and 11 of the bill and clarifies a reference in section 16 of the bill.

**Enrolled Bill Amendment to HB 1744-FN-A**

Amend section 6 of the bill by replacing lines 1-2 with the following:

6 New Section; Rulemaking. Amend RSA 287-D by inserting after section 1-a the following new section:

Amend section 11 of the bill by replacing lines 1-2 with the following:

11 New Sections; Licensing of Game Operators. Amend RSA 287-D by inserting after section 2-b the following new sections:

Amend paragraph I(d) of section 16 of the bill by replacing it with the following:

(d) The executive director of the pari-mutuel commission, or the executive director's designee.

**Adopted.**

**May 22, 2006**

**2006-2249-EBA**

**04/10**

**Enrolled Bill Amendment to HB 1747-FN**

The Committee on Enrolled Bills to which was referred HB 1747-FN

AN ACT establishing a New Hampshire healthy tidal waters and shellfish protection program and making an appropriation therefor.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

FOR THE COMMITTEE

**Explanation to Enrolled Bill Amendment to HB 1747-FN**

This enrolled bill amendment corrects a reference in the bill.

**Enrolled Bill Amendment to HB 1747-FN**

Amend section 4 of the bill by replacing lines 1 and 2 with the following:

4 Appropriation. The sum of \$175,000 is hereby appropriated for the fiscal year ending June 30, 2007 to the healthy tidal waters and shellfish protection fund established in RSA 487:37.

**Adopted.**

**June 2, 2006**

**2006-2401-EBA**

**08/09**

**Enrolled Bill Amendment to HB 1761**

The Committee on Enrolled Bills to which was referred HB 1761

AN ACT relative to hold over tenants in vacation or recreational rental units.

Having considered the same, report the same with the following amendment, and the recommendation that the bill as amended ought to pass.

**FOR THE COMMITTEE****Explanation to Enrolled Bill Amendment to HB 1761**

This enrolled bill amendment amends the title of the bill to accurately reflect its contents and makes technical corrections.

**Enrolled Bill Amendment to HB 1761**

Amend the title of the bill by replacing it with the following:

**AN ACT** relative to hold over tenants in vacation or recreational rental units and relative to lobbyist reporting requirements.

Amend section 1 of the bill by replacing line 5 with the following:

540-C:1 Covered Units. This chapter shall apply to all dwelling units which are:

Amend section 1 of the bill by replacing line 20 with the following:

540-C:4 Civil Penalty. Any person who directs a law enforcement officer to remove a tenant

**Adopted.**

**REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

**SB 388**, relative to farm composting and pesticides.

Senator Clegg moved adoption.

**Adopted.**

**REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

**SB 140**, relative to the acceptance of in-lieu payments for the restoration or creation of wetlands and the preservation of upland areas adjacent to wetland areas.

**SB 250**, relative to lead paint poisoning prevention.

**SB 251**, relative to the enforcement authority of the division of safety services.

**SB 287-FN**, making certain changes to the eminent domain statutes.

**SB 295-FN**, relative to registration of business entities.

**SB 325**, making technical corrections and other changes to motor vehicle laws.

**SB 352-FN**, relative to the regulation of real estate appraisers.

**SB 359-FN**, relative to the regulation of plumbers and water treatment technicians by the plumbers' board.

**SB 386**, relative to large groundwater withdrawals.

**SB 394**, establishing the Trust Modernization and Competitiveness Act.

Senator D'Allesandro moved adoption.

**Adopted.**

**REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

**SB 336**, relative to security deposits in landlord tenant matters.

**SB 358-FN**, relative to a nurse's duty to warn of violent acts of patients.

**SB 371-FN**, relative to the continuation of certain wetlands fees.

**SB 374-FN**, relative to the state children's health insurance program.

Senator D'Allesandro moved adoption.

**Adopted.**

### **REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

**HB 690-FN**, relative to aid to the needy blind, undue hardship for public assistance, and eligibility for and recovery of public assistance.

**HB 1167-FN-A**, relative to the department of transportation pilot program for effective investment of state highway mitigation funds and making an appropriation to the land and community heritage investment program.

**HB 1335**, relative to the authority of law enforcement officers during a state of emergency.

**HB 1346**, requiring certain persons to keep the contents of prescriptions confidential.

**HB 1464-FN-A-L**, relative to mosquito control, establishing a mosquito control fund, making an appropriation therefor, and relative to a public health response to arbovirus.

**HB 1581**, relative to drivers' licenses issued to persons under the age of 21.

**HB 1696-FN**, relative to the cremation of human remains.

**HB 1741-FN**, relative to reporting requirements concerning infections in hospitals.

**HB 1747-FN**, establishing a New Hampshire healthy tidal waters and shellfish protection program and making an appropriation therefor.

**SB 403**, relative to verification of identity when a person registers or attempts to vote.

Senator D'Allesandro moved adoption.

**Adopted.**

### **REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

**HB 1243-FN**, reducing certain fines for motor vehicle violations.

Senator D'Allesandro moved adoption.

**Adopted.**

### **REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

**HB 298**, relative to consolidating statutes relating to driving while intoxicated.

**HB 1417-FN**, establishing gold star number plates and relative to special number plates for veterans.

**HB 1672-FN**, relative to a registry for founded cases of abuse, neglect, or exploitation of incapacitated adults, relative to certain background checks, and establishing a task force relative to central registries.

**SB 200-FN**, establishing the uniform athlete agents act.

**SB 244**, relative to unclaimed deposits for utility services.

**SB 245**, repealing laws relative to the municipal courts and the administrative committee of the district and municipal courts.

**SB 252**, relative to certification of speech-language assistants for purposes of speech language pathology practice.

**SB 262**, establishing the position of an administrator of women offenders and family services within the department of corrections and establishing an interagency coordinating council on women offenders.

**SB 284-FN**, establishing a third full-time justice position in the Manchester, Nashua, and Concord District Courts.

**SB 323**, establishing a legislative youth advisory council.

**SB 391-FN**, relative to insurance third party administrators.

Senator D'Allesandro moved adoption.

**Adopted.**

### **REPORT OF COMMITTEE ON ENROLLED BILLS**

The Committee on Enrolled Bills has examined and found correctly Enrolled the following entitled House and/or Senate Bill(s):

**HB 37-FN**, relative to health insurance coverage for full-time students on medical leaves of absence.

**HB 76**, relative to distribution of state aid to charter schools and relative to funding for charter schools.

**HB 349**, relative to placement and removal of political advertising.

**HB 506**, including employees of charitable organizations under the protection of the state law against discrimination.

**HB 582**, relative to management of electronic records by the department of state, and relative to departmental salaries.

**HB 587**, relative to child abuse and neglect investigations by the department of health and human services.

**HB 656-FN**, relative to medical decision making for those adults without capacity to make health care decisions for themselves and establishing procedures for Do Not Resuscitate Orders.

**HB 678-FN**, relative to the insurance premium tax.

**HB 1126**, relative to licenses for first mortgage bankers, brokers, pawnbrokers, and money lenders and relative to licensing of money transmitters.

**HB 1146**, establishing a state energy policy commission.

**HB 1194**, relative to job protection for firefighters, rescue workers, and emergency medical personnel, and relative to health insurance claim review.

**HB 1238-FN**, relative to centralized voter registration database information and relative to interference with campaign communications.

**HB 1315**, relative to the definition and classification of dams, the acceptance of Jericho Lake dam and dike in Berlin, the fish and game department's acquisition of property rights to Big Brook Bog dam in Pittsburg, and the study of potential sources of funding for the repair and maintenance of dams by the state.

**HB 1331**, relative to the New Hampshire Temporary Assistance to Needy Families (TANF) program and making an appropriation therefor.

**HB 1343**, relative to the duties of the council on resources and development, and making bonded appropriations to the department of environmental services and the New Hampshire veterans' home.

**HB 1373**, establishing a commission to study ways to encourage the proper recycling and disposal of grease trap wastes and to determine ways to develop additional disposal capacity.

**HB 1407-FN-A**, relative to funding exotic aquatic weeds eradication and control.

**HB 1426**, granting a right-of-way over state-owned land.

**HB 1429**, relative to municipal exemptions for hazardous waste cleanup liability and preventing the exemption of privately-owned landfills and ancillary facilities from property taxes.

**HB 1459-FN-A**, making an appropriation to the department of regional community-technical colleges for tuition maintenance; authorizing the temporary use of the department of regional community-technical colleges nonlapsing account for tuition maintenance; and authorizing the use of the department of regional community-technical colleges' nonlapsing account for construction of a health education center nursing wing at the New Hampshire technical institute in Concord.

**HB 1463-FN**, relative to boating and water safety.

**HB 1474-FN**, relative to unemployment compensation contribution rates and benefits and establishing a commission to investigate the feasibility of merging the department of employment security into the department of labor.

**HB 1491**, extending certain deadlines relative to the Great Bay Estuary Commission and the Estuary Alliance for Sewage Treatment and establishing a commission to study the publicly owned treatment plant needs of New Hampshire and state laboratory water tests and fees.

**HB 1508**, relative to acceptance of applications by planning boards.

**HB 1574**, relative to membership on the public employees deferred compensation commission and relative to criminal penalties for certain securities violations.

**HB 1590-FN**, relative to the pari-mutuel commission.

**HB 1626-FN-A**, relative to appropriations for the expenses of certain departments of the state and establishing a quality early learning opportunity initiative and making an appropriation therefor.

**HB 1692-FN**, establishing the New Hampshire sexual predators act.

**HB 1697-FN**, relative to certain state salaries; establishing the position of director of homeland security and emergency management in the department of safety; authorizing the commissioner of safety to reorganize certain divisions, responsibilities, and activities of the department; relative to appeals of reclassification of positions; relative to a study of the unclassified salary schedule; and relative to the registration of apprentices by the board of barbering, cosmetology, and esthetics.

**HB 1710-FN-A**, making an appropriation to the department of health and human services for home care providers.

**HB 1720-FN**, relative to notice of parent liability in CHINS proceedings.

**HB 1724-FN**, relative to compensation and benefits for reserve and national guard members who are state employees and amending certain capital appropriations to the adjutant general.

**HB 1744-FN-A**, authorizing the pari-mutuel commission to regulate games of chance conducted by charitable organizations and relative to tournaments conducted by charitable organizations where chips have no monetary face value.

**HB 1758**, classifying bio-oil, bio synthetic gas, and biodiesel as renewable energy sources and relative to taxation of renewable generation facilities.

**HB 1761**, relative to hold over tenants in vacation or recreational rental units and relative to lobbyist reporting requirements.

**HB 1767-FN-A**, authorizing the state acquisition of real estate destroyed in the October 2005 floods, establishing a commission to determine the appropriate use of the property, and making an appropriation therefor. Senator D'Allesandro moved adoption.

**Adopted.**

**Out of Recess.**

### LATE SESSION

Senator Clegg moved that the Senate adjourn from the late session.

**Adopted.**

**Adjournment.**

*June 28, 2006*

The Senate met at 10:00 a.m.

A quorum was present.

Reverend Jared Rardin, Pastor of the South Congregational Church in Concord, guest chaplain to the Senate, offered the prayer.

REVEREND JARED RARDIN: Senator, thank you for your welcome. I trust that, even though your chaplain, who is a native of Pittsburg is not here, that a native of Philadelphia will do for the day. Let us begin for a moment, if you would, with just a moment of silence. So, take a deep breath, let the worries of the day pass by, and let us begin with a moment of silence.

*O God of infinite patience, mercy and wisdom, whose heart is always open and whose vision never relents, still for just a moment our busy thoughts and our rushing lives. That underneath the din of technological advance and pressing speech, we may again listen for Your still, small voice which has spoken from the beginning of time and speaks still. Make of us, we pray, O God, superb listeners today. Teach us to listen for what is true and not merely what sounds pleasing; to what is just and not merely convenient; to which is grand and not simply small. Teach us to listen to our colleagues with fresh patience and intention; tune our hearing to the dictates of Your heart and the desires of Your mind. In our listening during this session and during our whole lives, let there be just enough Holy Silence and sufficient pause to take our breath away at the sound of You. We give You thanks for one another's presence and participation in this session, whether in times of agreement or discord. We give You thanks for the commitment of time and energy of all who serve this Senate. We recognize and give You thanks for the privilege that we have of living in a state and a nation where freedom is honored and responsibility encouraged, and where the open exchange of differing ideas makes us stronger and not weaker. We offer up to You our prayers this day for all who are hospitalized or ill, either among this body or among our friendships and family circles. May the heat and humidity of today bring us to brevity and clarity. In Your name we pray,* Amen

Senator Letourneau led the Pledge of Allegiance.

Senators Barnes and Boyce are excused for the day.

## INTRODUCTION OF GUESTS VETO MESSAGES

### Veto Message of Governor John H. Lynch Regarding Senate Bill 249

By the authority vested in me as Governor of New Hampshire, pursuant to Part II, Article 44 of the Constitution of New Hampshire, on May 26, 2006, I vetoed SB 249, an act allowing a master electrician to have 2 apprentice electricians under his or her supervision.

Above all, electrical services have to be safe, and mistakes can cost lives. New Hampshire has a time-honored tradition of apprenticeship for electricians. Through this training relationship between apprentice and master electrician, our trades workers receive the safety instruction, job skills, education and direct supervision that is necessary to provide electrical services with the highest degree of competence and safety.

I cannot support SB 249 because it will undermine public safety and reduce the nature and quality of training that apprentices receive from master electricians. That is why the Bureau of Electrical Safety and Licensing of the Office of the State Fire Marshal, the Department of Labor, and the State Apprenticeship Council oppose this bill.

No states in New England have less than a one-to-one ratio between apprentice and electrician, and some even require greater than one-on-one supervision. SB 249 eliminates direct supervision of one apprentice by one master electrician, and by doing so, risks long-term public safety. Today, the retention rate for apprentice electricians is very low, and this



bill is likely to increase the drop out rate for apprentices who will no longer receive the guidance and one-on-one practical skills training they need to be successful and permanently enter the trade. For these reasons, I am vetoing SB 249.

Respectfully submitted,  
John H. Lynch  
Governor

Date: May 26, 2006

SENATOR FLANDERS: Mr. President, thank you. I was the prime sponsor of this bill, so I'd like to give you reasons why I sponsored it. The electrician people...I'm sorry... The electricians came to me and advised that they wanted to change the rules from one apprentice to two, because of sick days, vacation days, and the ratio of one-to-one didn't work. After thinking it over, I felt that this is something that would help the young people who want to get into a trade, and it's a trade that we all know that you can't get an electrician to come to your house, and so I thought it was very advantageous to this group of people who wanted to get into the trade, and I saw nothing wrong with that side. The second part of the bill, relative to exams that electricians must take in order to become licensed, I felt this was very important. We're talking about people coming into your home, and do electrician, and so forth. This basically made it a little easier, by going to the Electricians' Board, would take the test by computer, and they could take it more frequently than currently offered by the Electricians' Board, therefore providing more convenience for New Hampshire residents. I wish you'd consider voting for this bill, and consider that this is a bill for the benefit of the residents, benefit of the people, and benefit of the electricians. Thank you.

SENATOR LARSEN: Thank you, Mr. President. I rise to support the Governor's veto of Senate Bill 249. Senate Bill 249 threatens to take the focus of the state's electrical apprentice program out of the learning environment. Certainly we all recognize that, above all, electrical services have to be safe, and that any mistakes that are made can cost lives. New Hampshire has an honored and successful program of apprenticeships for electricians, and through this relationship between electricians, master electricians and apprentices, our trade workers get the safety instruction that they need to perform the electrical services with the highest degree of competency and safety. Rather than providing for the mentorship of young people, the fear is that, through passage of Senate Bill 249, we would, in fact, result in a less-skilled, less-accomplished workforce of electricians, where we know the one-on-one relationship is, in fact, successful in its mentoring ability. The concern we heard in public testimony in the Committee, were that there are already abuses of too many electrical apprentices in the scenarios of our state, and in the workplaces of our state, and we, in fact, can encourage this one-on-one mentoring and develop the skills necessary to protect the safety and well-being of our citizens. I urge your support of Senate Bill 249 in its veto.

SENATOR FULLER CLARK: Thank you very much, Mr. President. I rise, too, to support the Governor's veto of Senate Bill 249. While we have heard that by this bill that we will increase safety and reduce costs, it's my concern, and also the Governor's concern, that passage of this bill will do just the opposite. That we will give up the one-to-one relationship between master electrician and apprentice, and that we will not be

producing the skilled and trained electricians that we need now and in the future, particularly given the complexity of the electricians' trade today. I'd also like to point out that there's not one other state in New England that has less than a one-to-one ratio between apprentice and electrician, and finally, that this bill has been opposed by the Bureau of Electrical Safety, the Licensing of the Office of the State Fire Marshal, the Department of Labor, and the State Apprenticeship Council. I think that tells us that this is a bill that should not be allowed to go forward, and I urge my colleagues to support the Governor's veto for the safety of our constituents, and for promoting the highly-qualified electricians that we need.

SENATOR FLANDERS: Thank you, Mr. President. I failed to say last time that I'm reading the hearing report, and this was heard in ED & A when Senator Kenney was away, and I was Chairman at that time. Present on the day of the hearing was Senator Flanders, Senator Barnes and Senator Larsen, and I want to report that this was a bipartisan bill when it came out of committee, because the vote was three to nothing, ought to pass. So something happened after we heard all of this wonderful testimony, because the vote was taken the same day, and the testimony that we heard on the day of the bill was unanimous ought to pass. I just thought that you should know this. The people missing were Senator Kenney and Senator Boyce. Thank you.

SENATOR LETOURNEAU: Senator Flanders. Senator Flanders, is it true that the master electrician license holder has to be responsible for any work done by an apprentice?

SENATOR FLANDERS: Absolutely.

SENATOR LETOURNEAU: And the second question I have, follow-up. How many students does a school teacher have?

SENATOR FLANDERS: Anywhere I guess from twenty to thirty to forty.

SENATOR LETOURNEAU: Thank you.

SENATOR GOTTESMAN: Just a parliamentary inquiry. What are we voting? What is the motion that is pending, and what would a yes vote be, what would a no vote be?

SENATOR GATSAS (in the chair): If you want to pass the bill, you would be yes vote. If you don't want to pass the bill, it would be a no vote.

SENATOR FULLER CLARK: I do have a question, and I just want to clarify then that we are not voting on to sustain or reject the Governor's veto. We are voting...

SENATOR GATSAS (in the chair): You are voting yes for the bill would override the Governor's veto. Voting no would sustain the Governor's veto.

SENATOR FULLER CLARK: Thank you very much.

SENATOR HASSAN: Just for further clarification. If my memory serves me, the motion read by the Clerk just now was whether, notwithstanding the Governor's veto, we would vote to pass the law. So that's why the yes or noes are why they are. Thank you.

**The question is notwithstanding the Governor's Veto, shall SB 249 become law?**

**A roll call is required.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Green, Flanders, Odell Roberge, Eaton, Bragdon, Clegg, Gatsas, Letourneau, Morse.**

**The following Senators voted No: Burling, Gottesman, Foster, Larsen, Martel, D'Allesandro, Estabrook, Hassan, Fuller Clark.**

**Yeas: 13 - Nays: 9**

**Veto sustained.**

**Veto Message of Governor John H. Lynch  
Regarding Senate Bill 318**

By the authority vested in me as Governor of New Hampshire, pursuant to Part II, Article 44 of the Constitution of New Hampshire, on May 12, 2006, I vetoed SB 318, an act relative to the use of deadly force to protect oneself.

SB 318 will undermine public safety in New Hampshire and will frustrate aggressive prosecutions against drug dealers and other felons who escalate violence and dangerously discharge guns in our streets and neighborhoods. That is why the Attorney General, the New Hampshire Association of Police Chiefs, county attorneys and law enforcement officials across this state have all urged me to veto this bill. Moreover, both policy committees that heard testimony on this bill - the Senate Judiciary Committee and the House Criminal Justice and Public Safety Committee - opposed the bill.

I have tremendous respect for New Hampshire's police officers. Each day, they put themselves in harm's way to ensure that our communities remain safe and our laws are diligently enforced. SB 318 will make it more difficult, and more dangerous, for police officers to do their jobs.

New Hampshire law already makes clear that citizens can stand their ground and use deadly force whenever necessary to protect themselves and their loved ones whose lives are in jeopardy. Current law allows a person to use deadly force in any location against another in response to deadly force, or to prevent the commission of a serious crime such as kidnapping or forcible sexual assault, wherever and whenever those crimes may occur. Current law also justifies the use of deadly force against intruders entering one's home, regardless of whether the intruder has used or threatened to use deadly force. These laws honor the sanctity of human life, the sanctity of one's own home, and the right of citizens to defend themselves and others.

Our current laws are working well, and there is no indication that they have been misapplied or abused by prosecutors. At the public hearings on this bill, no cases were identified where an individual was wrongly convicted or unjustly charged with a criminal offense for having used deadly force in self defense or in defense of others. Prosecutors recognize the legitimate use of deadly force in self defense by New Hampshire citizens.

SB 318 would legalize a host of inappropriate uses of deadly force. The bill would allow a person to use deadly force in response to many instances of non-deadly force that do not warrant the taking of another human life, even in public places such as shopping malls, public streets, restaurants and churches. In a crowded shopping mall, for example, SB 318 would

authorize any shopper to instantly shoot and kill a thief who had grabbed or tugged at the shopper's purse or briefcase, regardless of how many shoppers might be placed in harm's way by such actions. Deadly force should only be used in public places when absolutely necessary, for which existing law already provides.

In our courts, SB 318 would offer new defenses to hardened criminals. SB 318 would burden our prosecutors and benefit felons and drug dealers who brandish weapons and carry out violent encounters to support their illegal trade. This bill will only encourage felons to inject violence into our public places under the guise of self defense.

I will continue to support legislation that supports our police officers, strengthens our public safety and honors the rights of New Hampshire citizens to protect themselves and their loved ones against danger. This bill does not further any of those goals, and represents a dramatic and unwarranted change in our criminal law. Given that current law is effectively working and widely supported by the law enforcement community, I am vetoing SB 318.

Respectfully submitted,  
John H. Lynch  
Governor

Date: May 12, 2006

SENATOR FOSTER: I rise in opposition to the motion and to sustain the Governor's veto. While the law is well-intentioned, I think the Governor laid out the reasons why we ought not to pass it at this time. Obviously, all of us are concerned about victims' rights, and victims and protecting individuals, but what I think people think this law would do, would not in fact make us a safer society, but actually make us more dangerous. The purpose that you hear that this law was put into place is to try to make sure that individuals who feel threatened can defend themselves against threats of deadly force or material force, but our current law today really does that. The Governor's laid that out in his veto message. If you're subjected to kidnapping, or violent sexual assault, or other types of crimes, you can indeed respond with deadly force. There seems to be some concern that, under current law, people could incorrectly use force and somehow be prosecuted. But in the hearings before my committee, and I think in the House as well, there was absolutely no example where that had actually happened. But some people still think it's a problem, and so they came forward with this piece of legislation. The problem with this legislation, as it's drafted, doesn't really go to that issue, but goes much broader, probably somewhat unintentionally, I would suggest. What it really says, the way it's written, is that if somebody were to come forward and, for example, try to steal your handbag and grabbed your arm, they would be committing a felony and using unlawful force. Those two things together, the way the law is written, I don't think this intended, but this is what it says, allows you to respond with, indeed, deadly force. Now, in my committee I asked some very strong witnesses whether I was reading the law right. Representative Mooney and Mr. Rice who came and testified, and both of them agreed, as I looked at the testimony from the committee, agreed with that's how the law's written. They said, "That would never happen. People wouldn't indeed do that, but yeah, I guess that's the way it's written." And I guess I would say this. Unlike maybe some areas of the law when we're writing laws, we can allow the administrative agencies to promulgate rules to fill in the blanks, or clarify some gray areas. But when we're

writing our criminal law statutes, we have to write them tightly and precisely and clearly, and if what's intended here is to make sure that individuals aren't prosecuted when they're responding to unreasonable force and in fear for their lives, we ought to get together, sit down and write a law that does that, and I think that all of us could get together and support that type of legislation. But, unfortunately, the way this is written, it doesn't do that. It just goes, unfortunately, too far, and what it would allow is people to, as I said, use deadly force in response to things that do not put their life at real risk. I don't think that honors life, and it actually would put others stand-by in a mall or populated area at risk when firearms are used. So I would ask that the motion to pass the legislation be opposed, vote no, and sustain the Governor's veto. Thank you.

**SENATOR LETOURNEAU:** Thank you. I rise in opposition to the Governor's veto, and I just wanted to say that Senate Bill 318 is based on the Castle Doctrine, which is based on old common English law that says the king has the right to be safe in his castle, that every person has a right to be safe in theirs. The purpose, and incidentally, this has been passed in eleven other states, and had this backing of law enforcement, which confuses me here in New Hampshire. But basically the burden of proof, which is shifted from right now, currently, it's the burden of proof of the victim to prove that they had the right to use this force. This bill attempts to make the burden of proof back on the state to prove that you're guilty of something instead of proving you're innocent. I'll go back to what I said originally when we talked about this bill, is that the right of self-defense is a natural right. It's not something given by government; it is something that is given by the Almighty. Thank you very much. **(TAPE CHANGE)**

**The question is notwithstanding the Governor's Veto, shall SB 318 become law?**

**A roll call is required.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Roberge, Eaton, Bragdon, Clegg, Gatsas, Martel, Letourneau, Morse.**

**The following Senators voted No: Burling, Green, Flanders, Odell, Gottesman, Foster, Larsen, D'Allesandro, Estabrook, Hassan, Fuller Clark.**

**Yeas: 11 - Nays: 11**

**Veto sustained.**

### **HOUSE MESSAGE**

The House of Representatives has voted to sustain the Governor's veto on the following entitled Bills:

**HB 345**, requiring photo identification to obtain a ballot.

**HB 1566**, relative to the definitions of resident for motor vehicle law purposes and domicile for voting purposes and relative to vehicle registration and driver's license requirements.

### **RESOLUTION**

Senator Clegg moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time.

**Adopted.**

## ANNOUNCEMENTS RESOLUTION

Senator Clegg moved that the Senate recess to the Call of the Chair.

**Adopted.**

**In recess to the Call of the Chair.**

*September 26, 2006*

The Senate met at 1:00 p.m.

A quorum was present.

Senate Guest Chaplain, The Reverend Janet Lombardo, from Trinity Episcopal Church in Tilton, New Hampshire led the Senate in prayer.

David, in a rare show of organization, actually had this prayer written for you today. So what I read to you are David's words. Life keeps teaching us that as soon as you decide something is certain, it changes. Because some of the faces here today are sure to be moving on to new things, take a good look around you and realize that this is the very last time this group will ever meet. Ever. Probably. Of course, you were pretty certain that was the case when you last met back in early summer, but certainties change. Now, I for one, when I learned my ABCs never thought the alphabet was going to change. And yet, here you are about to decide whether the song will go K, A, B, C, D, E, F, G..., or maybe K, L, M, N, O, P, Q, R, S...and you don't know the problem I had with the new math. Yet, this matter is not all that funny, for it is really a conversation about fairness – and you get to decide today, when it comes to voting, what is a fair ballot order that will allow us to pick you and others to make choices like this one in an adequate way. We trust you and we expect you to be wise, brave, and fair. That is the one thing that does not change – ever. Let us pray:

*Lord of the alphabet and multiplication table, show these women and men how, in all they do, to spell and calculate in ways that honor the people for whom the ballots were printed. And remind them to look around today and to realize how privileged they are to have been a part of this group.*

*Amen*

Senator Gallus led the Pledge of Allegiance.

## INTRODUCTION OF GUESTS

### PETITION FOR THE CALLING OF A SPECIAL SESSION

To the Secretary of State:

WHEREAS, the New Hampshire Supreme Court decided on August 17, 2006 in the case of Akins v. Secretary of State that the manner of conducting general elections with ballots prepared in accordance with RSA 656:5 is unconstitutional under the New Hampshire constitution;

WHEREAS, the next general election is scheduled to be held on November 7, 2006 and prior to such time the General Court is not scheduled to be in session to enact a statute for the preparation of general election ballots that satisfy the constitutional strictures of the Supreme Court;

WHEREAS, under Part 1, Article 11 of the New Hampshire Constitution, "[e]very inhabitant of the state, having the proper qualification, has an equal right to be elected into office...", and under Part II, Article 22,

the House of Representatives shall be the judge of the elections of its members and under Part II, Article 35, the Senate shall be the judge of the election of its members;

WHEREAS, the form of ballots for the elections in this state should be as specified by the people of the State acting through its elected members of the General Court and not as specified by, or as proposed to a trial court by, litigants in a private lawsuit;

WHEREAS, delay in the performance by the General Court of its obligation to specify the form of ballots for the general election in November may result in thousands of dollars in unforeseen and unbudgeted additional costs to municipalities;

WHEREAS, delay may also cause no acceptable form of a ballot to exist in the period following the September 12, 2006 primary elections and the state and municipalities to fail to meet one or more of the following statutory deadlines:

- October 6, 2006: last day for secretary of state to deliver federal overseas ballots to clerks. RSA 657:10
- October 6, 2006: last day for city council to set polling hours for general election. RSA 659:4
- October 24, 2006: last day for selectman to post warrant for general election. RSA 658:1
- October 24, 2006: last day for supervisors to prepare and post checklist for additional polling place. RSA 658:12
- October 28, 2006: last day for town clerks/supervisors to accept voter registration applications. RSA 659:12; RSA 654:8, II
- October 31, 2006: last day for Secretary of State to deliver general election ballots to clerks. RSA 656:20
- November 7, 2006: state general election. RSA 653:7; 654:7-a, 7-b.

WHEREAS, delay may further cause all elections to proceed under a non-statutory, judicially imposed scheme that will be subject to further challenge under state and federal laws and constitutional mandates;

WHEREAS, immediate legislative action is required to correct these problems to ensure that the State's general election in November, 2006 and its general elections thereafter are conducted in a manner that is in a constitutional and fair manner proposed by its elected representatives.

NOW THEREFOR, we, the undersigned, believe that the welfare of the state requires a special session of the General Court for the immediate enactment of laws specifying the form of general election ballots and therefore, pursuant to RSA 16 petition for the calling of a special session of the General Court:

September 18, 2006

### SENATORS

Barnes, John S., Jr.  
Boyce, Robert  
Clegg, Robert E., Jr.  
Gallus, John T.  
Gatsas, Theodore

Kenney, Joe  
Letourneau, Robert  
Martel, Andre  
Roberge, Sheila

### REPRESENTATIVES

Albert, Russell  
Allan, Nelson  
Allen, Janet

Griffin, Mary E.  
Hagan, Barbara  
Ham, Bonnie

Babson, David L., Jr.  
 Balboni, Michael A.  
 Bergeron, Jean-Guy J.  
 Berube, Roger  
 Bettencourt, David J.  
 Bickford, David  
 Boehm, Ralph  
 Boyce, Laurie J.  
 Brown, Carolyn  
 Buxton, Don  
 Camm, Kevin L.  
 Campbell, W. Packy  
 Carson, Sharon  
 Cataldo, Sam  
 Chaplin, Dunc  
 Christiansen, Lars  
 Clark, Charles L.  
 Desmarais, Vivian J.  
 Dickinson, Howard C.  
 Dowd, Jack  
 Dowling, Patricia A.  
 Dumaine, Dan  
 Easson, Timothy  
 Elliott, Nancy  
 Emerson, Susan  
 Fesh, Bob  
 Field, William  
 Flanders, Donald H.  
 Francoeur, Bea  
 Gionet, Edmond  
 Giuda, Robert  
 Goyette, Peter R.

Headd, James F.  
 Hellwig, Steve  
 Hinkle, Peyton  
 Hopfgarten, Paul  
 Introne, Robert  
 Itse, Daniel C.  
 Katsakiores, George N.  
 Katsakiores, Phyllis  
 Kennedy, Richard  
 Lockwood, Priscilla  
 Lund, Howie  
 Marple, Dick  
 Maybeck, Margie  
 Mead, Robert  
 Mirski, Paul  
 Mooney, Maureen  
 Newton, Cliff  
 Ober, Lynne  
 O'Brien, William L.  
 Osgood, Phillip Joe  
 Patten, Betsey  
 Renzullo, Andrew  
 Rosen, Ralph J.  
 Rowe, Robert  
 Soltani, Tony F.  
 Sorg, Gregory M.  
 Twombly, James  
 Ulery, Jordan  
 Villeneuve, Moe  
 Waterhouse, Kevin  
 Wendelboe, Fran  
 Wheeler, James

### CALL FOR THE SPECIAL SESSION

Dear Member of the General Court:

Pursuant to RSA 16:4 and 5, there were 15 affirmative votes as of 5:00 pm this day from members of the Senate and 211 affirmative votes from the members of the House to hold a special session. As a result of this vote, the members of each body shall convene at the State House on Tuesday, September 26, 2006 at 1:00 pm.

Respectfully yours,  
 William M. Gardner  
 Secretary of State

### ROLL CALL OF THE SENATE

**The Clerk called the roll which showed the following Senators present:**

**Gallus, Johnson, Kenney, Boyce, Burling, Flanders, Odell, Roberge, Eaton, Bragdon, Gottesman, Foster, Clegg, Larsen, Gatsas, Barnes, Martel, Letourneau, D'Allesandro,**



**PARLIAMENTARY INQUIRY**

**SENATOR ESTABROOK:** I have a parliamentary inquiry. We have some confusion in this corner as to what it is we are being polled on.

**SENATOR GATSAS (In the Chair):** Just attendance.

**SENATOR ESTABROOK:** Very good. Yes, you can record that.

**Estabrook, Morse, Hassan, Fuller Clark.**

**There were 23 members present.**

**RESIGNATION OF STATE SENATOR**

Senator Clegg was recognized to read a letter of resignation:

**SENATOR CLEGG:** Mr. President, I stand to read the resignation of our colleague Dick Green. It says, "Dear Mr. President, It is with mixed feelings that I write this letter of resignation from the New Hampshire State Senate as the Senator from District 6, representing the communities of Barrington, Madbury, Nottingham, Somersworth, and Rochester. I hereby notify you that I have changed my domicile outside of the District from which I was elected. This action requires me to resign from my position as Senator of District 6. It has been my honor to have had the opportunity to serve as a State Senator. I want to thank the voters for bestowing upon me this great opportunity to serve as their representative. To my colleagues in the State Senate, I want to thank each and every one of you for your friendship, respect, and professionalism towards me and my family during my tenure. Serving six years in this great institution has been both humbling and rewarding. Those members of the Senate staff who I have had the opportunity to work with, I could not have been as effective without your many hours of support and hard work. To you, Senator Gatsas, President of this legislative body, your leadership, understanding and total commitment to the ideals of good government has been greatly appreciated by me and many of my Senate colleagues. Even though I will no longer be a member of the Senate, I will always remember my six years as a Senator with fondness, positive memories, and a great respect for the people who make the system work.

Warmest regards,

Richard "Dick" Green  
Former State Senator District 6  
1973-74, 2003-06

Cc: Secretary of State, William Gardner

Cc: New Hampshire State Senators

**RESOLUTION**

Senator Clegg moved, BE IT RESOLVED, that the House of Representatives be informed that in pursuance of a petition from the Secretary of State, the Senate has assembled and is now ready to proceed with the business of the Special Session.

**RESOLUTION**

Senator Clegg moved, BE IT RESOLVED, that the 2006 Special Session Senate Rules be adopted by a majority vote.

**Adopted.**

**New Hampshire Senate  
Rules of the Special Session  
September 26, 2006**

1. Determination of quorum.
2. Members, decorum of.
3. Members, conduct when speaking.
4. Members not to speak more than twice.
5. President shall recognize whom.
6. Questions of order, appeal.
7. Member, absenting himself.
8. Motions, order of preference.
9. Questions postponed indefinitely not acted upon in same Special Session.
10. Questions, when divided.
11. Objections to reading paper, how determined.
12. Roll Call, everyone must vote.
13. Galleries, clearing of.
14. Reconsideration.
15. Petitions, introduction of.
16. Bills, introduction of.
17. Bills, drafting of.
18. Resolutions to be treated as bills.
19. Bills shall have three readings; Progress of; time for second and third readings.
20. Bills, printing and distribution.
21. Bills amended only on second reading; filing of amendments.
22. President to sign bills, etc.
23. Messages sent to House.
24. Messages, when received.
25. Voting; division of Senate.
26. Visitors to Senate.
27. Hours of meeting.
28. Rules of Senate, how suspended.
29. Rules of Senate, how rescinded.
30. Committee of the whole.
31. President may name member to chair.
32. Senate staff; composition and duties.
33. Senate staff, days of employment.
34. Conflict of Interest.
35. Personal privilege.
36. Appeal, presiding officer ruling.
37. Motions, no substitution under color of amendment.
38. Requisition Approval Required.
39. Requests to the Legislative Budget Assistant.
1. The President, having taken the chair, shall determine a quorum to be present in the Call for the Special Session and shall immediately call the members to order.
2. No member shall hold conversation with another while a member is speaking in debate, or use electronic devices, including but not limited to personal computers, and telephonic devices, without leave of the Senate.
3. Every member wishing to speak shall notify the President. When the member is recognized to speak, he shall rise and address the President, and when he has finished shall then sit down.

4. No member shall speak more than twice on the same question on the same day without leave of the Senate President.
5. More than one member wishing to speak at the same time, the President shall decide who shall speak first.
6. The President shall preserve decorum and order. If any member transgresses the rules of the Senate, the President shall, or any member may, call him to order in which case the member so called to order shall immediately cease and desist, and the Senate, if appealed to, shall decide the case. But if there is no appeal, the decision of the President shall be conclusive.
7. No member shall absent himself without permission from the Senate.
8. When any question is under debate, no motion shall be received but first, to adjourn; second, to lay upon the table; third, for the previous question; fourth, to postpone to a certain day; fifth, to commit; sixth, to amend; and seventh, to postpone indefinitely; which several motions shall have precedence in the order in which they are so arranged. Motions to adjourn, to lay upon the table, for the previous question, and to take from the table shall be decided without debate. Motions to postpone to a certain day shall be debatable both as to time and subject matter.
9. A question which is postponed indefinitely shall not be acted upon during the special session except whenever two-thirds of the whole number of elected Senators shall on division taken, vote in favor thereof. Any bill which is indefinitely postponed shall not be reintroduced under cover of an amendment any bill, resolution or order. No motion to suspend this rule shall be permitted.
10. Any member may call for a division of the question when the sense will admit it. Unless otherwise specifically provided for, a majority of those present and voting shall be required to pass any vote.
11. When the reading of a paper or document is objected to by a member, the question shall be determined by a vote of the Senate; and without debate.
12. When the nays and yeas have been moved by a member and duly seconded by another member each member present shall declare his assent or dissent to the question, unless for special reason he be excused by the Senate. The names of the persons so making the motion and the second shall be recorded in the Journal. The President shall determine the order of the roll call. No member shall be required to vote in any case where he was not present when the question was put.
13. In case of any disturbance or disorderly conduct in the gallery, the President shall have the power to order the same to be cleared. The Chairman of the Committee of the Whole may restrict attendance to the duly elected Senators.
14. No vote shall be reconsidered, unless the motion for reconsideration is made by a member who voted with the prevailing side. The notice of such motion for reconsideration shall be given to the Senate or to the Clerk in open special session prior to adjournment or recess to the call of the chair on the same day on which the vote was passed in special session.

15. Before any petition shall be received and read, a brief statement of the contents thereof shall be made by the member introducing the same.
16. All petitions, memorials and other papers addressed to the Senate and all bills and resolutions to be introduced into the Senate shall be delivered or caused to be delivered to the Office of Legislative Services, which in turn will submit it to the sponsor for his signature, and then to the Clerk by Legislative Services. If requested by the sponsor, a proposed bill, resolution or petition shall not be made public, except by the sponsor, until signed by the sponsor.
17. Drafting of Bills
  - (a) Enactment of laws, as provided in the Petition which resulted in the Call for the Special Session, shall be by bill. No bill, bill amendment, order or resolution shall be introduced into the Senate the subject matter of which is not included in the final paragraph of the Petition which resulted in the Call for the Special Session.
  - (b) The Office of Legislative Services shall not accept a request to draft any bill, bill amendment, order or resolution the subject matter of which is not included in the final paragraph of the Petition which resulted in the Call for the Special Session.
18. All resolutions which may require the signature of the Governor shall be treated in the same manner as bills.
19. Every bill shall have three readings in the Senate previous to its passage. The first and second readings shall be by title only which may be accomplished by a conglomerate resolution. No bill after it has been read a second time shall have a third reading until after adjournment from the early session. The time assigned for the third reading of bills and resolutions shall be in the late session unless otherwise ordered by the Senate. The orders of the day for the reading of bills shall hold for every succeeding day until disposed of.
20. After every bill shall have been read a second time, the Clerk shall procure a sufficient number of copies, printed on paper of uniform size, for the use of the senate, and cause the same to be distributed to the members. Bills received from the House shall be printed at the same stage of their procedure unless they have been printed in the House and copies distributed in the Senate, in which case any amendment made by the House shall be duplicated and distributed in the Senate.
21. No amendment shall be made but upon the second reading of a bill; and all amendments to bills and resolutions shall be in writing, with the name of the Senator and the district he represents, or in the case of a committee amendment the name of the committee that recommended it, thereon. No amendment to any bill shall be proposed or allowed at any time or by any source except it be germane. Amendments shall have been reviewed by the Office of Legislative Services for form, construction, statutory and chapter reference.
22. All warrants, subpoenas and other processes issued by order of the Senate shall be under the hand and seal of the President attested by the Clerk.
23. Messages shall be sent to the House of Representatives by the Clerk of the Senate.

24. Messages from the Governor or House of Representatives may be received at all times, except when the Senate is engaged in putting the question, in calling the yeas and nays, or in counting the ballots.
25. All questions shall be put by the President, and each member of the Senate present shall signify his assent or dissent by voting yea or nay, or shall abstain from voting by reason of a conflict pursuant to rule 34. If the President doubts, or a division is called for, the Senate shall divide. Those in the affirmative on the question shall first rise from their seats and stand until they be counted. The President shall rise and state the decision of the Senate.
26. No person except members of the Senate and its officers, the Governor, Council members, the Secretary of State, the Treasurer, the Speaker of the House of Representatives and its officers and clerks, shall be admitted to the floor of the Senate while the Senate is in session, except by the invitation of the President, or some member with the President's consent.
27. The late session shall immediately follow the early session unless the Senate shall otherwise order.
28. No standing rule of the Senate shall be suspended unless two-thirds of the members present and voting vote in favor thereof. This rule shall not apply to Senate Rule 9.
29. No rule shall be rescinded unless the motion has been given and two-thirds of those present and voting vote therefore.
30. The Senate may resolve itself into a Committee of the Whole at any time on motion made for that purpose; and in forming a Committee of the Whole, the President shall leave the chair, and appoint a chairperson to preside in committee.
31. The President when performing the duties of the Chair may, at any time, name any member to perform the duties of the Chair.
32. The staff of the Senate shall be comprised of a clerk, an assistant clerk, a sergeant-at-arms, and a doorkeeper who are currently elected by the Senate, and such other personnel as the President shall appoint. The President shall define the duties of all members of the Senate staff which are not fixed by statute or otherwise ordered by the Senate.
33. Each member of the staff of the Senate shall be available on call to carry out the work of the Senate.
34. In all instances every member shall act in conformance with the duly adopted Ethical Guidelines and Opinions of the New Hampshire General Court.
35. Personal Privilege: A Senator may, as a matter of personal privilege, defend his/her position on a bill, his/her integrity, his/her record, or his/her conduct, against unfair or unwarranted criticism, or may speak of an issue which relates to his/her rights, privileges or conveniences as a Senator; provided, however, the matters raised under personal privilege shall not be subject to questioning, answer, or debate, by another Senator. Personal Privilege remarks may be included in the Daily Journal if requested by the Senator, and in the Permanent Journal by vote of the Senate. A Senator may speak on other matters of his/her choosing and in such cases may be subject to questioning and/or answer according to the Rules of the Senate.

36. Any appeal from the ruling of the presiding officer shall be decided by majority vote of the members present and voting.
37. No new motion shall be admitted under color of amendment as a substitute for the motion under debate.
38. No officer or employee of the Senate during the session or any adjournment thereof shall purchase or contract for the purchase, pay or promise to pay any sum of money on behalf of the Senate or issue any requisition or manifest without the approval of the Senate President.
39. Any Senate member may make a request of the office of the Legislative Budget Assistant budget division, for technical staff assistance in the areas of finance, accounting and budgeting. The budget division may respond to that request when doing so will not interfere with the budget division's principle responsibilities as outlined in RSA 14:31-b, as determined by the Legislative Budget Assistant.

### INTRODUCTION OF SENATE BILL

Senator Clegg offered the following Resolution:

RESOLVED that, in accordance with the list in the possession of the Senate Clerk, Senate legislation numbered **SB 1** shall be by this resolution read a first and second time by the therein listed title.

**Adopted.**

### First and Second Reading

06-4001

**Special Session Senate Bill 1**, relative to preparation of 2006 state general election ballots. (Sen. Clegg, Dist 14; Rep. O'Neil, Rock 15)

### SPECIAL SESSION REPORT

**Special Session Senate Bill 1**, relative to preparation of 2006 state general election ballots.

**Senator Clegg moved ought to pass on Special Session Senate Bill 1.**

**The question is on the adoption of the motion of ought to pass on Special Session Senate Bill 1.**

SENATOR LARSEN: I rise to oppose the passage of Senate Bill 1, believing that an orderly process for the elections to come in November is in the best interests of our state and our voters. The printing and distribution of preparation and delivery of absentee ballots is in the best interests of our voters. Whether they be elderly, whether they be in the military, whether they be students in other states, it is of utmost importance that these ballots be printed in a way that best provides for an orderly distribution. We seek, and I seek to affirm the Secretary of State's authority to make a constitutional ballot. The statutes are very clear that the ballots for use in all state elections shall be prepared and delivered by the Secretary of State at the expense of the state. We believe that, whether it be in the order that the Secretary of State has presented or in some future decision of what is best meets our Constitution, we believe that the Secretary of State has that authority to make a constitutional ballot, and the best way to resolve this, to bring timeliness and constitutionality to our ballot, is to give and reaffirm the Sec-

retary of State's authority to prepare the ballot and deliver it in a timely way. So I rise to oppose SB 1 believing that the Secretary of State already has the statutory authority and intend to vote no on SB 1.

SENATOR BOYCE: Thank you, Mr. President. I rise to point out that, as is their custom, the Supreme Court of this state has gotten it wrong. They got it wrong in the Claremont decisions, they've gotten it wrong again this time. Not only did they not consider what's really the, the rights that are involved here, but they completely ignored the rights that are involved here. Their ruling deals with the narrow, very narrow population, those who are on the ballot. They ignored completely the people who get to cast those ballots. They ignored totally the rights of the people to come in and see a ballot that they can understand and use it to vote. The court totally disregarded the fact that they had more than two years to render this decision and that they rushed to judgment at the last minute with no other purpose that I can see than to disrupt the orderly elections in this state. They could have come out with a ruling last spring while the Legislature was in session, or they could've come out with a ruling that said "after this election" this will be our ruling. However they decided not to do that; they decided that because they have no other guiding principles than to disrupt what the Legislature does, that seems obvious from the ruling. Since they have no other purpose in life than to disrupt the Legislature, they rendered their ruling so close to the primary that even they had to decide that they would let the primary stand as is because those ballots were already printed. However, they decided, in their ultimate lack of judgment, that the people who get to vote should have chaos rather than sanity. I will vote for this bill today, not because I think it's the best bill, not because I think it's the proper thing to do, but because it tells the court that at least "we" get to pass legislation, not "they". They don't understand that they are "not" the people's elected representatives; they are simply the court that is supposed to rule on "judgments" and "not" enact legislation, and "not" make it difficult for the legislature and the people to hold their business. Thank you.

SENATOR D'ALLESANDRO: Thank you, Mr. President. I rise in opposition to the bill. I want to read RSA 651:1. "General Responsibility. Ballots for use in all state elections shall be prepared and delivered by the Secretary of State at the expense of the state." The Secretary of State was elected by this legislative body, not only once, but he happens to be the longest Secretary of State in the United States of America, longest serving Secretary of State in the history of New Hampshire. I believe the Secretary of State has not only the responsibility, but the statutory authority to do what the Secretary of State did, and I support that decision. I support it because it's in the statutes, it is law, and we should conform to the law. We are a society that is built on law. A body like this creates the law. We created that law. It seems to me it's incumbent upon us to stand behind what we created. If we want to make a change, that change can come in January. But the law is in place, the statutory authority has been given to the Secretary of State. I support that decision, I support the statutory authority that's in the RSAs. I think it's incumbent upon us as elected public officials to respect the law. Thank you, Mr. President.

SENATOR CLEGG: Thank you, Mr. President. I rise in support of Senate Bill 1, and while I can read RSA 651, 656:1, and it does say that he

shall prepare the ballot, nothing in here says he should prepare the ballot and ignore the rest of 656. Because, under 656:4 it talks about naming domicile; 656:5 it tells him about party columns; 656:6 designation of offices. There's a whole lot of law that tells the Secretary of State how to prepare that ballot. Nothing in 656:1 says prepare the ballot and ignore any other statutes in the book. That being said, the Secretary of State asked us to come back because he doesn't feel that 656:1 grants him authority to ignore what the Legislature has done. So he has said "Here's my decision, would you come in and affirm it." In fact, not only did I agree with him, but I have a copy of the *New Hampshire Democratic Party Bulletin on Special Legislative Session*. And in it, Kathy Sullivan says; "Secretary of State Bill Gardner has designed a ballot that is fair for all candidates, whether Republican, Democratic, Independent and the special session is unnecessary expense." So we all seem to agree, or quite a few of us, that what Bill Gardner has done is the right thing. And Bill Gardner, being a good constitutional officer, has said "I don't believe I have the authority to ignore the legislative body, so would you please come in and tell me whether I'm doing the right thing." Now there's been some question about exactly what Senate Bill 1 does. So, to try to clear that up I'd like to add a statement that says "This act shall not require the Secretary of State to conduct new random drawings or selections for the purpose of preparing ballots to the extent the Secretary of State has previously done so in a manner consistent with the terms of this act." Now, for those who don't know, this was actually written by one of the democrats, I'm sure they have more lawyers than we do. But what we're saying is, we believe that what the Secretary of State has done, doesn't have to be redone with the passage of Senate Bill 1. So my question is, if anyone disagrees, or doesn't believe that that's the intent when we pass this bill, should we pass this bill, if that's not the intent, to please stand up now and voice your opposition to what I believe, and I think the democratic leader believes, is the intent of the Senate that we not go back and pick out a new letter, we not go back and pick out new column lengths or who goes where, but that we affirm what's already happened. Thank you, Mr. President.

SENATOR LARSEN: Question of Senator Clegg. Senator Clegg, I appreciate your agreement and your interest in finding the legislative and Senate intent on the language, and I wondered did you, did you mean to affirm and ask for the affirmation of all those in the Senate that the act does not require the Secretary of State to conduct new random drawings or selections for the purpose of preparing ballots in that the Secretary of State has previously done so consistent with the terms of the act? Did you mean to confirm that, and are we now asking for legislative intent with this group, so that if no one speaks up against that, you are in fact, we are all affirming our intent that there not be added dispute about column order and the process that the Secretary of State has already dealt with in a previous action in his office with all members present, all active members present?

SENATOR CLEGG: Senator Larsen, that is exactly what I'm asking is that this be the clear intent of the Senate, and unless the majority of senators stand up and object, that should there be any further actions taken that the intent be clearly stated in both the journal and anywhere else that we would legally be able to put it, that our intent is that what's already happened is okay and complies with the law as we passed it.

SENATOR LARSEN: Thank you very much.



**A roll call was requested by Senator Kenney.**

**Seconded by Senator Barnes.**

**The following Senators voted Yes: Gallus, Johnson, Kenney, Boyce, Flanders, Odell, Roberge, Eaton, Clegg, Gatsas, Barnes, Martel, Letourneau, Morse.**

**The following Senators voted No: Burling, Bragdon, Gottesman, Foster, Larsen, D'Allesandro, Estabrook, Hassan, Fuller Clark.**

**Yeas: 14 - Nays: 9**

**Adopted.**

**Ordered to third reading.**

### **SPECIAL MOTION**

SENATOR CLEGG: Mr. President, can I take care of a piece of unfinished business before we go into the next? I would ask, with my colleagues' approval, that we enter the letter of resignation by Senator Green into the Permanent Journal.

**Adopted.**

### **RESOLUTION**

Senator Clegg moved that Special Session Senate Bill 1 be, by this motion, read a third time, the title be the same as adopted and passed at the present time.

**Adopted.**

### **RESOLUTION**

Senator Clegg moved that the Senate now adjourn from the early session, that the business of the late session be in order at the present time.

**Adopted.**

### **LATE SESSION**

#### **Third Reading and Final Passage**

**Special Session Senate Bill 1**, relative to preparation of 2006 state general election ballots.

### **ANNOUNCEMENTS**

SENATOR BOYCE (RULE #35): Thank you. I rise simply to say goodbye. The people have spoken, I guess and, well a small minority have. I'm not returning, and it's with mixed emotions knowing that in January you get to face once again the education funding crisis which I faced for the ten years that I've been here and I've tried multiple different times to come up with solutions, and I've co-sponsored and voted for multiple constitutional amendments that would have changed it. I've also voted for constitutional amendments that would have made the judges more responsive to the real world things like retention elections. I believe that one of the problems we do have in this state which continues, and will continue until we finally reread the Constitution and determine that the Legislature actually is the more preeminent body in the government, that when the founders of this state wrote the Constitution, they did not even include at the point, a governor, because they didn't trust governors. They'd seen the English version of governors and wanted nothing to do with it. It wasn't until later that they added a governor. The Legislature was given control over the courts, and in fact, was instructed to create whatever

courts were necessary. We don't have an equal, a three-part equal government. That may be true in the federal government, but our Constitution sets up a less than actual equal. There are not three equal branches. And, as I pointed out when I was a member of the House, the founders set up a situation where any two of the branches should be able to overrule the third. The Legislature, by two-thirds vote, can overrule the Governor on a veto but that's the only place where one body can overrule one other or any of the other bodies. But the founders felt that we should have this two-thirds situation, and I've fought for upholding the Legislature's position. And I think that, if nothing else, that's the one thing I've tried to do in my ten years in the Legislature. I wish you all well in your future endeavors in trying to solve the education funding. I hope you're able to do it without an income tax, because I don't want to have to pay one, because I'm sure that I'll be making more than \$100 a year from here on out. So I thank you for everything while I've been here and I will miss you all and have a nice afternoon.

SENATOR BURLING (RULE #35): I just want to rise, Senator Boyce, as your seat-mate to say that you have once again confirmed my suspicion that you and I disagree about almost everything of public policy, but there hasn't been a single moment that I haven't enjoyed sitting next to you, and I wish you God speed in everything you do.

SENATOR D'ALLESANDRO (RULE #35): Thank you, Mr. President. I just rise to talk about an example of good public service. I called the Commissioner of Transportation, and I know Senator Clegg and Senator Morse have worked hard with DOT to get things done, and I really appreciate that and appreciate their effort. But I called her, Bob, because there is a day-care center at the technical institute in Manchester, and the danger of a vehicle coming from the highway and endangering those children playing in that yard I thought was very significant. I was called by a constituent and asked if we could get jersey barriers put up to protect those kids that are out in the yard. The Commissioner of Transportation responded to my call, said she had the jersey barriers, and she would put them in place and they are in place, and those young kids are now protected by an act of public service and public commitment by a department of state government that we are all proud of. I know we have some problems over there, but there is a time when you have to talk positively about something they've done to protect the people of the state of New Hampshire. Those young children who play in that daycare center are better protected today than they were before those jersey barriers went up. So I commend the Commissioner. I commend the Department of Transportation. I give them a hearty thank you, and I say government does work. It does work; you just have to stay with the program. Thank you, Mr. President.

SENATOR LARSEN (RULE #35): I just rise, as we all face election season, and Senator Boyce has already faced an election, to state that I think everyone in this room has the highest respect for Senator Boyce's public service and all of us recognize what ten years of service to public, the public's interests means, and as we all approach the November elections that we approach that with that same sense of respect and appreciation. So, Senator Boyce, we wish you all the best, and in fact, every single person in this room, we have the highest respect for because each of us in our own service, recognizes what it means to give to your state and to offer your services. So, on behalf of all of us, I want to reiterate his seat-mate's word of thanks and to all of you. Thank you.

**RESOLUTION**

Senator Clegg moved that the Senate stand in recess to the Call of the Chair.

**Adopted.**

**In recess to the Call of the Chair.**

**HOUSE MESSAGE**

The House of Representatives, pursuant to a call from the Secretary of State, has assembled and is now ready to proceed with the business of the Special Session.

## SENATE JOURNAL

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    - appropriation ..... HB 1608

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- highway projects exempt from new statutes ..... HB 2006am
- property may not be taken for private use ..... CACR 30
  - ..... CACR 44
- property taken only for public use, US Constitutional
  - amendment urged ..... HJR 25
- public use defined; term to replace public purpose ..... SB 287

**Emissions**

- mercury
  - and carbon dioxide from coal burning power plants, reduction
    - amendments ..... SB 128
  - from coal burning power plants, scrubber technology required ..... HB 1673
- motor vehicles, inspections, EPA on-board diagnostic II testing
  - advisory only period extended; repair waiver program ..... SB 341
  - fee separate from other charges ..... HB 1356
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- commissioner, closure of district offices or reduction in services or
  - hours, prior permission of fiscal committee required ..... HB 1474am
- employers who file false or incomplete information about employees,
  - penalties; amnesty period for unpaid contributions ..... HB 1478
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- and planning office, fuel assistance program, 2005 appropriation repealed .... HB 1626
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generation facilities, payments in lieu of taxes authorized ..... HB 1758
- renewable sources, default service option; restructuring, system  
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- renewable sources, requirements, certificates, sale or exchange  
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- renewable sources, wind facilities, siting and construction, study ..... HB 1568
- restructuring, legislative oversight committee, duty to evaluate  
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- restructuring, system benefits charge, programs funded by, study ..... SB 389
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**Enfield**

- Enfield Women's Memorial Bridge over Mascoma River named ..... SB 239
- storm damage on June 10, 2005, payment for unreimbursed loss,  
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**Enhanced 911 system**

- information or records, access by law enforcement agencies for  
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- wireless telephone providers, reimbursement for expenses incurred  
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- study extended ..... HB 1265am

**Environmental health**, council on the relationship between

- public health and the environment, membership,  
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**Environmental Protection Agency**, emissions, motor vehicle

- on-board diagnostic II testing  
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**Environmental services department**

## air pollution

- control permits, local approval also required ..... HB 121
- mercury emissions from coal-burning power plants, scrubber  
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- air resources council, membership changed ..... HB 1579
- best management practices, motor vehicle junk yards and recycling  
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- chief operations officer, changed to chief financial officer ..... SB 264
- commissioner, rulemaking authority removed in various statutes ..... HB 1523
- electronic wastes, disposal, monitoring and report required ..... HB 1455
- energy expense shortfall in state-owned buildings, supplemental  
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- exotic aquatic plants  
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- laboratory of hygiene, water tests and fees, study ..... HB 669
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- permits, electronic database, appropriation ..... HB 1343am
- pollution control facilities, air or water, tax exemption applicable  
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- real property where methamphetamine has been produced,  
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- sewage disposal plans to include location of known burial sites or  
cemeteries; setback requirements ..... HB 1584
- underground storage facility permits, local approval also required ..... HB 121am
- water
  - future needs and availability, means to estimate, pilot project in  
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  - groundwater held in public trust, duty to manage and preserve;  
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  - groundwater, large withdrawals, permit moratorium until study  
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  - excavating permits, fee reduced, effective date extended; wetlands  
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  - restoration, aquatic resource compensatory mitigation, in-lieu  
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**Estheticians, unlicensed practice or other violations,**

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- study extended ..... HB 1491am

**Estuary alliance for sewage treatment, first meeting,**

- deadline extended ..... HB 1491am

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- committee
  - legislative, disqualification and recusal of members, procedures ..... HB 270
  - legislative, lobbyist may not serve until 6 months after expiration  
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  - to assist health and human services commissioner in event of a  
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  - employees and officials, state code amended ..... SB 206
  - official defined; public employee and public official replaced with  
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- fee reduced, effective date extended; wetlands bureau report on  
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- member, harm or threat against, penalty ..... SB 379

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- prevention, grant program funded from increased boat registration
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- land, transfers exempt from real estate transfer tax under certain
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**Federal Emergency Management Agency,** disaster assistance grants

- for floods of October 2005, matching funds; appropriation ..... HB 1765

**Federal highway grant anticipation bonds,** widening I-93 and

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**Felons,** prohibited from possessing a hunting license or hunting,

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  - surcharge added for benefit of the town in which the offense occurred ..... SB 280
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- health care providers to report burn injuries in certain circumstances ..... HB 574
- propane and natural gas, fuel gas fitters licensed and regulated by
  - safety department; Amilia's law ..... HB 1711

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- and ammunition, confiscation during state of emergency prohibited ..... SB 348
- Congress urged to withdraw funding from the United Nations if it
  - adopts a resolution to forbid private ownership of firearms ..... HCR 25

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- law enforcement officers, active and retired, allowed to carry weapons
  - in any state, Law Enforcement Officers Safety Act of 2004
    - implemented in NH ..... HB 1477
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- hazardous materials accidents, rates, costs, and guidelines for
  - equipment and personnel, maximum set by safety
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- insurance premium tax to firemen's relief fund, amount increased ..... SB 162

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    - accepting gifts, grants, and donations; use of
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  - Big Brook Bog dam in Pittsburg, rights accepted ..... HB 1315am
  - exotic aquatic plants, permitting process for application of
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  - support conservation projects; super sporting license
    - repealed, account transferred ..... HB 1657
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  - measures of ensuring the right of individuals to pursue
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  - felons convicted of certain crimes prohibited from possessing a
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  - land and community heritage investment program, restriction
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  - leashed tracking dogs may be used to track wounded deer,
    - moose or bear; rulemaking ..... HB 1646
  - preserves, remote control and Internet hunting prohibited;
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  - red deer and elk as agricultural products; hunting at regulated
    - shooting areas or hunting preserves ..... HB 1269
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  - lifetime, for bow and arrow, muzzle loading firearm, and crossbow ..... HB 254
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  - lobsters and crabs, limited commercial licenses, fee increased ..... HB 1182am
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  - emergency management bureau, disaster assistance grants,
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  - severely damaged properties in Alstead, Langdon, and
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- registration of out-of-state and in-state residential non-commercial kitchens; rulemaking ..... HB 1683
- service establishments
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  - occasional, redefined ..... SB 235
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- Food stamps**, overpayments, waiver of claim to reimbursement, conditions ..... HB 1465

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- division, forest rangers required to complete training as full-time police officers ..... HB 1603

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- 6 children limit may be exceeded to allow for siblings of a child already in care ..... SB 395
- children leaving, transitional housing in state-owned buildings, study ..... HB 1589

- Fraud** against the elderly or disabled, extended term of imprisonment ..... SB 207am
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- Free trade agreements**, Congressional moratorium on new agreements and investigation of current agreements to insure they are in the best interests of the citizens of NH and the US ..... HCR 8

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- unlicensed practice or other violations, penalties amended ..... HB 624

- Funerals**, effectiveness of laws, study ..... SB 272

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- games of chance and tournaments conducted by charitable organizations licensed and regulated by pari-mutuel commission; study commission to evaluate ..... HB 1744
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- pari-mutuel commission, racing, licenses, background checks and monitoring, fees; notification of change of ownership; stewards and judges, decisions appealed to the commission ..... HB 1590
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- Gasoline**, petroleum powered vehicles, or containers, submerged in surface waters, removal notifications and procedures amended .... SB 282am

- Gasoline tax**, road toll, boat and OHRV refunds, date for application changed; payment to navigation safety fund or lake restoration and preservation fund ..... HB 1418

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- Grafton**, storm damage on June 10, 2005, payment for unreimbursed  
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- Grafton county**, floods of October 2005, disaster assistance grants,  
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- Granite state scholars** program, funds nonlapsing and continually  
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- Grease trap wastes**, proper recycling and disposal encouraged, study ..... HB 1373

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  - wood component, or any waste containing lead, mercury, or  
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- mercury
  - added products banned from landfills and transfer stations ..... HB 371
  - emissions from coal burning power plants, reductions required ..... SB 128
  - emissions from coal-burning power plants, scrubber technology  
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- sites, cleanup, environmental services commissioner, rulemaking  
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  - or neglect reports, investigation and evaluation by multidisciplinary  
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  - petition may be filed only by the department ..... HB 397
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  - in vicinity of methamphetamine manufacture, storage, or disposal,  
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  - residential placement, educational costs, determination of legal  
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  - with special health care needs residing at home, personal care  
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  - certificate of need review board, nursing home new bed moratorium  
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  - offices, clinics, and health centers included in chapter on patients'  
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  - transfer or discharge of residents or patients, written notice  
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- Registry of deeds**, documents filed with, Social Security and financial account numbers excluded; information may be removed from documents on the Internet..... SB 319am  
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- Reiki**, practitioners exempt from regulation as massage therapists ..... SB 313
- Rescue squad members** called to duty during a state of emergency, job protection ..... HB 1194
- Reservoir Road**, Deering, reclassified ..... HB 1468
- Resident**, definition for fish and game license amended ..... HB 1115
- Residential care facilities**  
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- Resources and development council**, duties regarding sale of state-owned land advisory only; minutes of meetings provided to various officials ..... HB 1343
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SB 1 (Special session) relative to preparation of 2006 state general election ballots. Question, adopt motion of ought to pass. Yeas, 14; Nays, 9 .....	1631
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SB 131-FN, establishing a school choice certificate program. Question, adopt floor amendment. Yeas, 14; Nays, 9 .....	90
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SB 190-L, relative to workforce housing opportunities. Question, adopt committee amendment. Yeas, 10; Nays, 13 .....	62
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SB 206-FN, relative to the state code of ethics and establishing an executive ethics commission. Question, adopt conference committee report. Yeas, 23; Nays, 0 .....	362
SB 225-FN-A, establishing video lottery. Question, adopt committee amendment. Yeas, 18; Nays, 5 .....	174-175
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SB 249, allowing a master electrician to have 2 apprentice electricians under his or her supervision and relative to examinations of electricians by the electricians' board. Question, pass over governor's veto. Yeas, 13; Nays, 9 .....	1616-1617
SB 262, establishing a strategic planning commission for gender-responsive management of female offenders in the criminal justice system. Question, adopt floor amendment. Yeas, 6; Nays, 16 .....	435
SB 268, raising the age of required attendance of children in school. Question, adopt bill as amended. Yeas, 17; Nays, 7 .....	584
SB 287-FN, making certain changes to the eminent domain statute. Question, adopt committee report of ought to pass. Yeas, 24; Nays, 0 .....	259
SB 294-FN-A, authorizing 7 additional state troopers and making an appropriation therefor. Question, adopt committee report of ought to pass. Yeas, 20; Nays, 4 .....	247

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SB 301-FN, relative to pooled risk management programs for municipalities and public entities. Question, adopt committee amendment. Yeas, 10; Nays, 12 .....	367-368
SB 307-FN, relative to catastrophic special education funding. Question, adopt committee report of inexpedient to legislate. Yeas, 12; Nays, 11 .....	526
SB 314-FN-L, establishing minimum renewable standards for energy portfolios. Question, adopt bill as amended. Yeas, 20; Nays, 3 .....	402
SB 315-FN-A-L, repealing the statewide enhanced education tax. Question, adopt committee report of inexpedient to legislate. Yeas, 15; Nays, 8 .....	202-203
SB 316-FN-L, requiring interpretation services upon request for persons receiving medical treatment. Question, remove from table. Yeas, 10; Nays, 14 .....	520
SB 317-FN, establishing a screening panel to review complaints to occupational and professional regulatory boards and establishing an appeals board to review decisions by occupational and regulatory boards. Question, adopt bill as amended. Yeas, 14; Nays, 10 .....	611
SB 318-FN, relative to the use of deadly force to protect oneself. Question, adopt committee report of inexpedient to legislate. Yeas, 11; Nays, 12 .....	388
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SB 343, relative to emergency contraception. Question, adopt committee report of inexpedient to legislate. Yeas, 14; Nays, 10 .....	496-497
SB 350-FN, relative to boarding kennels. Question, adopt committee report of ought to pass. Yeas, 18; Nays, 5 .....	527
SB 355-FN, relative to unlawful possession of alcohol by a minor. Question, adopt bill as amended. Yeas, 19; Nays, 4 .....	440
SB 367-FN, imposing a penalty on Medicaid providers who receive over-payments of state Medicaid funds. Question, adopt committee report of inexpedient to legislate. Yeas, 10; Nays, 13 .....	375
SB 374-FN, relative to the healthy kids corporation. Question, adopt committee amendment. Yeas, 16; Nays, 8 .....	589
SB 386, relative to large groundwater withdrawals. Question, adopt bill as amended. Yeas, 19; Nays, 5 .....	487
SB 390, relative to membership of the board of tax and land appeals. Question, adopt committee report of ought to pass. Yeas, 11; Nays, 13 .....	554
SB 397-FN-A, establishing a temporary energy tax credit against the business enterprise tax. Question, adopt floor amendment. Yeas, 8; Nays, 16 .....	598
SB 398-FN, relative to political contributions and expenditures. Question, adopt committee amendment. Yeas, 23; Nays, 1 .....	265
SB 403, relative to verification of identity when a person registers or attempts to vote. Question, adopt bill as amended. Yeas, 16; Nays, 8 .....	620
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SB 407-FN-A, relative to enforcement of labor statutes under current federal immigration laws. Question, adopt floor amendment. Yeas, 8; Nays, 16 .....	608
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SCR 6, urging Congress to take legislative action regarding embryonic stem cell research. Question, adopt floor amendment.	
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SCR 7, urging Congress to amend the No Child Left Behind Act.	
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SCR 8, declaring the general court in opposition to the federal Real ID Act of 2005. Question, lay on table. Yeas, 14; Nays, 9 .....	414
HB 37-FN, relative to health insurance coverage for full-time students on medical leaves of absence. Question, adopt bill as amended. Yeas, 23; Nays, 0 .....	777
HB 66, regulating mandatory overtime for nurses and assistants. Question, adopt motion of inexpedient to legislate.	
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HB 76, relative to distribution of state aid to charter schools. Question, adopt committee amendment. Yeas, 15; Nays, 8 .....	1312
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HB 100-FN-A-L, amending the formula for funding public education. Question, adopt committee report of ought to pass.	
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HB 153-FN, relative to the collection of debts owed to the state. Question, adopt committee amendment. Yeas, 14; Nays, 9 .....	162
HB 162, relative to general rules for vessels operating on water. Question, adopt committee report of inexpedient to legislate. Yeas, 15; Nays, 9 .....	475
HB 177, relative to home improvement contracts. Question, adopt floor amendment. Yeas, 15; Nays, 8 .....	131-132
Question, lay on table. Yeas, 15; Nays, 8 .....	132
HB 345, requiring photo identification to obtain a ballot. Question, adopt committee report of ought to pass. Yeas, 14; Nays, 9 .....	864
HB 391, relative to election affidavits. Question, adopt committee report of ought to pass. Yeas, 21; Nays, 3 .....	970-971
HB 406, revising certain provisions of the home education statutes. Question, adopt committee amendment. Yeas, 8; Nays, 14 .....	51
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HB 529, relative to the determination of parental rights and responsibilities. Question, adopt bill as amended.	
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HB 590, excluding stepchildren from the definition of "child" in the context of support orders. Question, adopt committee report of ought to pass. Yeas, 14; Nays, 10 .....	512
HB 653-FN-L, relative to bonds for construction, development, improvement, and acquisition of broadband facilities. Question, adopt committee report of ought to pass.	
Yeas, 22; Nays, 1 .....	405
HB 678-FN, relative to the insurance premium tax. Question, adopt committee amendment. Yeas, 23; Nays, 0 .....	1325
Question, adopt bill as amended. Yeas, 23; Nays, 0 .....	1326
HB 1111, designating the pumpkin as the New Hampshire state fruit. Question, adopt committee report of ought to pass.	
Yeas, 23; Nays, 1 .....	918
HB 1125, relative to the filing period for candidates in the presidential primary. Question, adopt committee report of ought to pass. Yeas, 23; Nays, 0 .....	778
HB 1134, relative to membership of the state building code review board. Question, lay on table. Yeas, 14; Nays, 8 .....	1227

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HB 1167-FN-A, making an appropriation to the land and community heritage investment program. Question, adopt floor amendment.	
Yeas, 18; Nays, 5 .....	1053
Question, adopt floor amendment. Yeas, 11; Nays, 12 .....	1061
HB 1177, prohibiting smoking in restaurants, cocktail lounges, and certain enclosed public places. Question, adopt committee report of inexpedient to legislate. Yeas, 12; Nays, 11 .....	773
HB 1204, relative to human immunodeficiency virus education, prevention and control. Question, adopt floor amendment.	
Yeas, 23; Nays, 0 .....	1212
HB 1222-FN, relative to unlawful voting. Question, lay on table.	
Yeas, 8; Nays, 15 .....	782-783
Question, adopt committee report of ought to pass. Yeas, 15; Nays, 8 .....	784
HB 1241-FN-L, extending the kindergarten construction aid program.	
Question, adopt committee amendment. Yeas, 22; Nays, 0 .....	1062
HB 1331, relative to the New Hampshire Temporary Assistance to Needy Families (TANF) program. Question, adopt committee amendment. Yeas, 15; Nays, 8 .....	1345
Question, adopt bill as amended. Yeas, 15; Nays, 8 .....	1351
HB 1335, relative to the authority of law enforcement officers during a state of emergency. Question, adopt bill as amended.	
Yeas, 24; Nays, 0 .....	1000-1001
HB 1343, relative to the duties of the council on resources and development. Question, adopt conference committee report.	
Yeas, 21; Nays, 3 .....	1516
HB 1346, requiring certain persons to keep the contents of prescriptions confidential. Question, adopt committee amendment. Yeas, 18; Nays, 4 .....	1242
Question, adopt bill as amended. Yeas, 22; Nays, 0 .....	1242
HB 1370, transferring certain surplus moneys to the revenue stabilization reserve account. Question, adopt committee report of ought to pass. Yeas, 24; Nays, 0 .....	613
HB 1407-FN-A, relative to funding exotic aquatic weeds eradication and control. Question, adopt floor amendment.	
Yeas, 11; Nays, 12 .....	1071-1072
HB 1417, establishing gold star number plates. Question, adopt bill as amended. Yeas, 24; Nays, 0 .....	1035
HB 1436-L, authorizing municipal and county biennial budgets for a 24-month period. Question, adopt committee amendment.	
Yeas, 4; Nays, 19 .....	1275
HB 1452-FN, requiring insurance coverage for the cost of testing for bone marrow donation. Question, adopt committee report of ought to pass. Yeas, 23; Nays, 0 .....	831
HB 1458-FN, relative to the regulation of landscape architects.	
Question, adopt motion of ought to pass. Yeas, 15; Nays, 7 .....	1083
HB 1459-FN-A, relative to the department of regional community-technical colleges and making an appropriation therefor.	
Question, adopt committee amendment. Yeas, 22; Nays, 1 .....	1085
Question, adopt floor amendment. Yeas, 8; Nays, 15 .....	1090
Question, adopt bill as amended. Yeas, 23; Nays, 0 .....	1094
HB 1474-FN, relative to unemployment compensation contribution rates and benefits. Question, adopt committee amendment.	
Yeas, 9; Nays, 14 .....	1103
Question, adopt committee amendment. Yeas, 13; Nays, 10 .....	1103
Question, challenge ruling of the chair (question of division of a bill)	
Yeas, 8; Nays, 14 .....	1107
Question, dividing the question. Yeas, 10; Nays, 13 .....	1107
HB 1477, implementing the federal Law Enforcement Officers Safety Act of 2004. Question, adopt committee report of ought to pass. Yeas, 23; Nays, 0 .....	1208

**Roll calls** (*cont.*)

HB 1495, relative to setback requirements for landfills located near rivers. Question, lay on table. Yeas, 16; Nays, 7 .....	1235
HB 1506, requiring children 12 years of age or under to wear personal flotation devices. Question, lay on table. Yeas, 13; Nays, 11 .....	949-950
HB 1534, relative to maintaining construction and demolition debris as a solid waste. Question, adopt committee report of inexpedient to legislate. Yeas, 16; Nays, 7 .....	1196
HB 1566, relative to the definitions of resident for motor vehicle law purposes and domicile for voting purposes and relative to vehicle registration and driver's license requirements. Question, adopt committee report of ought to pass. Yeas, 16; Nays, 7 .....	1223-1224
HB 1567, relative to removing names from the checklist. Question, adopt floor amendment. Yeas, 9; Nays, 15 .....	976
Question, adopt bill as amended. Yeas, 18; Nays, 6 .....	976
HB 1580, relative to the child support formula. Question, lay on table. Yeas, 16; Nays, 7 .....	1301
Question, remove from table. Yeas, 16; Nays, 7 .....	1301
Question, adopt motion of ought to pass. Yeas, 9; Nays, 14 .....	1305-1306
Question, adopt motion of inexpedient to legislate. Yeas, 13; Nays, 10 .....	1306
HB 1582, prohibiting New Hampshire from participating in a national identification card system. Question, adopt floor amendment. Yeas, 14; Nays, 9 .....	1294
Question, adopt bill as amended. Yeas, 14; Nays, 9 .....	1294
Question, adopt motion to refuse to accede to conference committee. Yeas, 14; Nays, 7 .....	1444
HB 1612-FN, relative to the use of lottery revenue as purses for horse and dog racing. Question, adopt committee report of inexpedient to legislate. Yeas, 12; Nays, 12 .....	1019
Question, adopt floor amendment. Yeas, 15; Nays, 9 .....	1027
Question, adopt bill as amended. Yeas, 18; Nays, 5 .....	1028
HB 1626-FN-A, relative to appropriations for the expenses of certain departments of the state. Question, adopt floor amendment. Yeas, 8; Nays, 15 .....	1119
Question, adopt bill as amended. Yeas, 23; Nays, 0 .....	1120
HB 1673-FN, relative to the reduction of mercury emissions. Question, adopt committee report of ought to pass. Yeas, 22; Nays, 2 .....	938
HB 1690, relative to renewable energy. Question, adopt committee amendment. Yeas, 21; Nays, 2 .....	1360
Question, adopt bill as amended. Yeas, 20; Nays, 3 .....	1360
HB 1692-FN, establishing the New Hampshire sexual predators act. Question, ought to pass as amended. Yeas, 21; Nays, 3 .....	829-830
Question, adopt conference committee report. Yeas, 24; Nays, 0 .....	1527
HB 1697-FN, relative to certain state salaries. Question, adopt bill as amended. Yeas, 21; Nays, 1 .....	1129
Question, adopt bill as amended. Yeas, 22; Nays, 1 .....	1129
HB 1710-FN-A, relative to appropriations to the department of health and human services for home care providers and community mental centers and making an appropriation to increase the hourly rate of pay for direct care providers for persons with developmental and acquired disabilities and extending the provision of supplemental pharmacy assistance. Question, adopt committee amendment. Yeas, 17; Nays, 6 .....	1134
Question, adopt committee amendment. Yeas, 16; Nays, 7 .....	1134-1135
HB 1711-FN, relative to the regulation of fuel gas fitters. Question, adopt bill as amended. Yeas, 23; Nays, 1 .....	929-930
HB 1741-FN, relative to reporting requirements concerning infections in hospitals. Question, adopt committee report of ought to pass. Yeas, 23; Nays, 0 .....	1136



**Roll calls** (*cont.*)

- HB 1752, requiring notice regarding the classifications of employee and independent contractor. Question, reconsideration.  
Yeas, 7; Nays, 16 ..... 1204  
Question, adopt conference committee report. Yeas, 16; Nays, 8 ..... 1552-1553
- HB 1758, classifying biodiesel as a renewable energy source.  
Question, adopt committee amendment. Yeas, 23; Nays, 0 ..... 1200  
Question, adopt floor amendment. Yeas, 19; Nays, 4 ..... 1219
- HB 1765-FN-A-L, relative to funding for disaster relief efforts in response to the October 2005 floods and making an appropriation therefor. Question, adopt floor amendment. Yeas, 10; Nays, 12 ..... 808  
Question, adopt committee report of ought to pass. Yeas, 22; Nays, 0 ..... 808
- HB 1767-FN-A, authorizing the state acquisition of real estate destroyed in the October 2005 floods, establishing a commission to determine the appropriate use of the property, and making an appropriation therefor. Question, adopt floor amendment. Yeas, 6; Nays, 16 ..... 1365-1366  
Question, adopt bill as amended. Yeas, 22; Nays, 0 ..... 1366
- HJR 20, supporting stem cell research. Question, lay on table.  
Yeas, 15; Nays, 9 ..... 969
- HJR 21, urging the University of New Hampshire to restore intercollegiate baseball and softball. Question, adopt committee report of ought to pass. Yeas, 24; Nays, 0 ..... 836
- HJR 23, designating a Purple Heart Trail spur to the New Hampshire state veterans cemetery and providing additional signs for the Purple Heart Trail. Question, adopt committee report of ought to pass. Yeas, 24; Nays, 0 ..... 614
- HJR 24, supporting efforts for commuter rail in the state of New Hampshire. Question, lay on table. Yeas, 16; Nays, 7 ..... 475-476  
Question, lay on table. Yeas, 17; Nays, 7 ..... 478
- HJR 25, encouraging the United States Congress to propose an amendment to the Constitution concerning eminent domain. Question, adopt committee report of ought to pass.  
Yeas, 24; Nays, 0 ..... 1010
- HCR 20, commending the New Hampshire committee for Employer Support of the Guard and Reserve. Question, adopt committee report of ought to pass. Yeas, 24; Nays, 0 ..... 953-954
- CACR 30, relating to limits on the taking of private property. Providing that a person's property shall not be taken by eminent domain if the taking is for private use. Question, adopt motion of ought to pass. Yeas, 24; Nays, 0 ..... 958
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The abbreviations listed below are used in the Numerical Index.

<b>adop</b>	adopted
<b>am</b>	amended, amendment
<b>Cap Budget</b>	referred to Capital Budget Committee
<b>Com</b>	re-referred to committee
<b>conc</b>	concurred
<b>conf</b>	conference committee
<b>Econ Dev</b>	referred to Energy and Economic Development Committee
<b>enr</b>	enrolled
<b>Finance</b>	referred to Finance Committee
<b>H</b>	House
<b>intro</b>	introduced, introduction
<b>IP</b>	indefinitely postponed
<b>K</b>	killed (inexpedient to legislate)
<b>LT</b>	laid on the table
<b>nonconc</b>	nonconcurred
<b>opin</b>	opinion
<b>psd</b>	passed
<b>RC</b>	roll call
<b>rcmt</b>	recommitted
<b>recon</b>	reconsideration, reconsidered
<b>rej</b>	rejected
<b>rep</b>	report
<b>req</b>	request, requested
<b>S Ct</b>	New Hampshire Supreme Court
<b>SO</b>	special order
<b>study</b>	referred to interim study committee
<b>wthd</b>	Withdrawn, withdrew, withdrawal

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**SB 211-FN**, relative to pharmaceutical marketers. (Executive Departments and Administration)  
H Study 542

**SB 221**, relative to identification requirements for obtaining a driver's license. (Transportation and Interstate Cooperation)  
**New title:** relative to obtaining a driver's license and creating a violation for failure to pay a highway toll.  
am 35-37, psd 112, H conc 1043, enr am 1454, enr 1573 (Chapter 211)

**SB 225-FN-A**, establishing video lottery. (Ways and Means)

**New title:** relative to horse and dog racing.  
am (RC) & Finance 167-175, psd (RC) 521-523, 541, H conc 1392, enr 1463 (Chapter 156)

## 2006 SENATE BILLS

**SB 229**, relative to subsidizing malpractice premiums for certain specialties. (Burling, Dist 5; Fuller Clark, Dist 24: Internal Affairs)  
6, K 414

**SB 230**, relative to the scope of liability of a medical director responsible for utilization review under the managed care law. (Clegg, Dist 14; et al: Judiciary)  
**New title:** relative to the qualifications and liability of the medical director responsible for utilization review under the managed care law.  
6, am 692-694, psd 751, H nonconc 1043

**SB 231**, relative to the residency requirement to qualify for the elderly property tax exemption. (Barnes, Dist 17; Charron, Rock 7: Public and Municipal Affairs)  
6, psd 444, 457, conc H am 1411, enr 1573 (Chapter 212)

**SB 232-FN-A**, making a capital appropriation to the department of health and human services for a dental facility in the town of Tamworth. (Kenney, Dist 3: Capital Budget)  
6, am 662-663, psd 751, H study 1392

**SB 233**, relative to motorcycle rider education. (Letourneau, Dist 19; Packard, Rock 3: Transportation and Interstate Cooperation)  
6, am 37-38, psd 112, H conc 1040, enr am 1418, enr 1464 (Chapter 174)

**SB 234**, including the International Residential Code 2000 in the definition of the state building code. (Clegg, Dist 14; et al: Public and Municipal Affairs)  
7, psd 211, 223, H conc 1040, enr 1191 (Chapter 112)

**SB 235**, relative to food safety in restaurants. (D'Allesandro, Dist 20; et al: Executive Departments and Administration)  
7, K 663-664

**SB 236**, establishing an employment restriction on former board members of public corporations. (D'Allesandro, Dist 20: Internal Affairs)  
7, K 414

**SB 237**, relative to excessive overpricing of essential commodities during a declared state of emergency. (Larsen, Dist 15; et al: Energy and Economic Development)  
7, K 231-232



- SB 238**, relative to assistance to members of the general court provided by the legislative budget assistant. (Gatsas, Dist 16; et al: Internal Affairs)  
7, psd 181, 190, H nonconc 1391
- SB 239**, renaming the bridge located on Main Street in Enfield, New Hampshire and crossing the Mascoma River as the Women in Service to Enfield (WISE) Bridge. (Burling, Dist 5: Transportation and Interstate Cooperation)  
**First new title:** renaming the bridge located on Main Street in Enfield, New Hampshire and crossing the Mascoma River as the Women in Service to Enfield (WISE) Bridge and naming the bridge located on Main Street in Newmarket, New Hampshire and crossing the Lamprey River as the Newmarket Veterans Bridge.  
**Second new title:** renaming the bridge located on Main Street in Enfield, New Hampshire and crossing the Mascoma River as the Enfield Women's Memorial Bridge and naming the bridge located on Main Street in Newmarket, New Hampshire and crossing the Lamprey River as the Newmarket Veterans Bridge.  
7, am 38-39, psd 112, conc H am 1415, enr 1573 (Chapter 213)
- SB 240**, relative to transmission poles or structures on public highways. (Kenney, Dist 3: Energy and Economic Development)  
7, LT 392
- SB 241**, allowing municipalities to exclude certain retirement assets from consideration in qualifying for the elderly property tax exemption. (Kenney, Dist 3; et al: Public and Municipal Affairs)  
7, psd 444, 457, H nonconc 1043
- SB 242**, prohibiting a person charged with unlawfully killing a decedent from taking from the decedent's estate. (Gottesman, Dist 12; et al: Judiciary)  
7, am 253-254, psd 268, H nonconc 1044
- SB 243**, establishing a commission to study rural transit in New Hampshire. (Kenney, Dist 3: Energy and Economic Development)  
7, LT 393
- SB 244**, relative to alternative regulation of small incumbent local exchange carriers. (Boyce, Dist 4: Energy and Economic Development)  
**First new title:** relative to alternative regulation of small incumbent local exchange carriers and relative to unclaimed deposits for utility services.  
**Second new title:** relative to unclaimed deposits for utility services.  
7, am 476-478, psd 541, conc H am 1396-1397, enr am 1578, enr 1611 (Chapter 266)
- SB 245**, repealing laws relative to the municipal courts and the administrative committee of the district and municipal courts. (Foster, Dist 13; Dokmo, Hil 6: Judiciary)  
8, psd 32, 112, conc H am 1410, enr am 1578-1579, enr 1611 (Chapter 267)
- SB 246**, relative to provisions for permissible contact between the agent of the defendant subject to a protective order and a plaintiff. (Foster, Dist 13; et al: Judiciary)  
8, psd 33, 112, conc H am 1410, enr 1573 (Chapter 214)
- SB 247**, establishing a right to work act which provides for freedom of choice on whether to join a labor union. (Boyce, Dist 4: Banks and Insurance)  
8, LT 632-633
- SB 248**, establishing a committee to study the issuance of dealer plates to bonded motor vehicle dealers. (Flanders, Dist 7: Transportation and Interstate Cooperation)  
8, LT 188-189
- SB 249**, allowing a master electrician to have 2 apprentice electricians under his or her supervision. (Flanders, Dist 7; et al: Executive Departments and Administration)  
**New title:** allowing a master electrician to have 2 apprentice electricians under his or her supervision, and relative to examinations of electricians by the electricians' board.  
8, am 143-146, psd 190, H conc 1040, enr am 1418-1419, enr 1464, Veto sustained (RC) 1614-1617
- SB 250**, relative to lead paint poisoning prevention. (D'Allesandro, Dist 20; et al: Environment and Wildlife)  
8, am 479-480, psd 541, nonconc H am, conf 1399, rep adop 1557, 1571, enr am 1579, enr 1609 (Chapter 314)

- SB 251**, relative to the enforcement authority of the division of safety services. (Flanders, Dist 7: Environment and Wildlife)  
8, psd 140, 190, conc H am 1399, enr am 1579-1580, enr 1609 (Chapter 315)
- SB 252**, relative to defining "speech-language assistant" for purposes of speech language pathology practice. (Hassan, Dist 23; et al: Executive Departments and Administration)  
**New title:** relative to certification of speech-language assistants for purposes of speech language pathology practice.  
8, am 146-147, psd 190, conc H am 1400-1401, enr am 1580, enr 1611 (Chapter 268)
- SB 253**, relative to enforcement of support orders for college and postsecondary educational expenses. (Hassan, Dist 23; Larsen, Dist 15: Education)  
8, am 287-288, psd 353, H study 1043
- SB 254**, renaming a certain bridge in the town of Stratford the Janice Peaslee Bridge. (Gallus, Dist 1; et al: Public and Municipal Affairs)  
8, psd 445, 457, H conc 1040, enr 1191 (Chapter 113)
- SB 255**, establishing a committee to study the funding necessary to operate the hazardous materials program in New Hampshire. (Eaton, Dist 10; et al: Environment and Wildlife)  
8, am 140-141, psd 190, H conc 1043, enr 1393 (Chapter 121)
- SB 256**, relative to the definition of "harm" for purposes of the crime of improper influence. (Johnson, Dist 2; Flanders, Dist 7: Judiciary)  
8, psd 254, 268, H conc 822, enr 915 (Chapter 43)
- SB 257**, requiring the joint legislative committee on administrative rules to study procedures for agency responses to complaints from the public. (Fuller Clark, Dist 24; Patten, Car 4: Executive Departments and Administration)  
9, K 147
- SB 258**, requiring the joint legislative committee on administrative rules to study methods for improving notice to the public of proposed administrative rules. (Fuller Clark, Dist 24; Patten, Car 4: Executive Departments and Administration)  
9, K 148
- SB 259**, relative to the duty of care of occupants of land constructing or maintaining snowmobile trails. (Flanders, Dist 7: Environment and Wildlife)  
9, K 294
- SB 260**, relative to certification of a registered nurse responsible for emergency medical transportation. (Johnson, Dist 2; Burling, Dist 5: Health and Human Services)  
9, psd 206-207, 223, H conc 1040, enr 1191 (Chapter 114)
- SB 261**, establishing a committee to study a highway project between Pembroke and Bow. (Larsen, Dist 15; et al: Transportation and Interstate Cooperation)  
9, K 218-219
- SB 262**, establishing a strategic planning commission for gender-responsive management of female offenders in the criminal justice system. (Larsen, Dist 15; et al: Judiciary)  
**First new title:** establishing the position of an administrator of women offenders and family services within the department of corrections, and establishing an interagency coordinating council on women offenders, and making an appropriation therefor.  
**Second new title:** establishing the position of an administrator of women offenders and family services within the department of corrections and establishing an interagency coordinating council on women offenders.  
9, am & Finance (RC) 415-435, psd 524, 542, conc H am 1401-1402, enr am 1580-1581, enr 1611 (Chapter 269)
- SB 263**, relative to inclusionary zoning and workforce housing. (Larsen, Dist 15; et al: Executive Departments and Administration)  
9, K 664-668
- SB 264**, relative to the chief financial officer of the department of environmental services. (Clegg, Dist 14; et al: Executive Departments and Administration)  
9, psd 66, 112, H nonconc 913

- SB 265**, relative to workers' compensation requirements for out-of-state employers and employees. (Hassan, Dist 23; et al: Banks and Insurance)  
9, psd 193-194, 224, H conc 1043, enr 1393 (Chapter 122)
- SB 266**, requiring candidates for employment at the department of education to submit to a criminal background check. (Barnes, Dist 17: Education)  
9, K 288-289
- SB 267**, relative to the definition of employee and clarifying the criteria for exempting workers from employee status. (Hassan, Dist 23: Banks and Insurance)  
9, am 633-657, psd 751, H study 1043
- SB 268**, raising the age of required attendance of children in school. (Green, Dist 6; et al: Education)  
**New title:** raising the age of required attendance of children in school and establishing a 2-year pilot program for increasing vocational education opportunities in the Manchester and Nashua school districts and making an appropriation therefor.  
10, am & Finance 462-467, am (RC) 572-584, psd 751, H study 913
- SB 269**, ratifying certain actions at the 1996 Seabrook annual town meeting. (Hassan, Dist 23; et al: Public and Municipal Affairs)  
**New title:** ratifying all actions from the 1996 Seabrook annual town meeting, pertaining to the adoption of article 3, through September 12, 2006.  
10, psd 184, 190, conc H am 1411-1412, enr am 1455, enr 1573 (Chapter 215)
- SB 270**, relative to a certain motor vehicle plate. (Barnes, Dist 17: Transportation and Interstate Cooperation)  
10, K 189
- SB 271**, relative to the availability of voter checklist information. (Green, Dist 6; D'Allesandro, Dist 20: Internal Affairs)  
10, psd 208, 224, H nonconc 1044
- SB 272**, establishing a committee to study laws relating to funerals and crematories, and their effectiveness. (Fuller Clark, Dist 24; et al: Health and Human Services)  
10, K 250-251
- SB 273**, relative to reasonable accommodations for employees with disabilities. (Hassan, Dist 23; et al: Banks and Insurance)  
10, psd 657-658, 751, H conc 1043, enr am 1419, enr 1464 (Chapter 181)
- SB 274**, adding court security to the duties of the New Hampshire court accreditation commission. (Foster, Dist 13; Dokmo, Hil 6: Judiciary)  
10, Finance 33, psd 195, 224, H conc 822, enr 915 (Chapter 44)
- SB 275**, removing the requirement for criminal record checks for licensed nurses. (Martel, Dist 18: Judiciary)  
10, K 254-255
- SB 276**, authorizing the town of Seabrook to plow and remove snow from certain private driveways. (Hassan, Dist 23; Palazzo, Rock 14: Public and Municipal Affairs)  
10, K 211-212
- SB 277-LOCAL**, permitting seasonal camps to qualify as open space land for current use assessment. (Burling, Dist 5; Fuller Clark, Dist 24: Public and Municipal Affairs)  
10, K 185
- SB 278-FN**, exempting certain transfers from the real estate transfer tax. (Burling, Dist 5: Ways and Means)  
10, K 219
- SB 279-FN**, allowing employees of area agencies and mental health clinics to be treated as state employees for purposes of insurance. (Burling, Dist 5; et al: Banks and Insurance)  
10, K 276-279
- SB 280-FN-A-LOCAL**, adding a surcharge to motor vehicle fines for use by municipalities. (Barnes, Dist 17: Finance)  
10, K 241
- SB 281-FN**, establishing an organ and tissue donor registry. (Kenney, Dist 3; et al: Transportation and Interstate Cooperation)  
11, am 347-348, psd 353, conc H am 1415, enr 1573 (Chapter 216)

- SB 282-FN-LOCAL**, relative to removal of abandoned vehicles on private property. (Kenney, Dist 3: Judiciary)  
**New title:** relative to removal of abandoned vehicles.  
 11, am 308-309, psd 353, conc H am 1410, enr 1574 (Chapter 254)
- SB 283-FN**, relative to stop loss insurance. (Flanders, Dist 7; et al: Banks and Insurance)  
 11, am & Finance 135-136, psd 241, 268, conc H am 1402, enr 1573 (Chapter 217)
- SB 284-FN**, establishing a third full-time justice position in the Manchester, Nashua, and Concord District Courts and equalizing the annual salaries of all justices of the Manchester, Nashua, and Concord District Courts. (Foster, Dist 13; et al: Judiciary)  
**New title:** establishing a third full-time justice position in the Manchester, Nashua, and Concord District Courts.  
 11, am & Finance 255, psd 412, 457, conc H am 1402, enr am 1581-1582, enr 1611 (Chapter 295)
- SB 285-FN**, equalizing the pay of administrative judges in the judicial branch. (Foster, Dist 13; Dokmo, Hil 6: Executive Departments and Administration)  
 11, LT 407-409, am & Finance 489-491, K 620
- SB 286-FN**, requiring first class mail notice to defendants in small claims actions. (Foster, Dist 13: Judiciary)  
**New title:** relative to notice to defendants in small claims actions.  
 11, am 255-256, psd 268, nonconc H am 1410-1411
- SB 287-FN**, making certain changes to the eminent domain statute. (Odell, Dist 8; et al: Public and Municipal Affairs)  
**First new title:** making certain changes to the eminent domain statute and establishing a committee to study eminent domain issues.  
**Second new title:** making certain changes to eminent domain statutes.  
 11, psd (RC) 258-259, 268, nonconc H am, conf 1412, rep adop 1558, 1571, enr am 1582, enr 1609 (Chapter 324)
- SB 288-FN**, relative to street rods and custom vehicles. (Boyce, Dist 4: Transportation and Interstate Cooperation)  
**New title:** relative to street rods.  
 11, am 265-266, psd 268, H nonconc 1040
- SB 289-FN**, relative to the brain and spinal cord advisory council. (Boyce, Dist 4; et al: Internal Affairs)  
 11, am 208-210, psd 224, H conc 822, enr am 1419-1420, enr 1464 (Chapter 184)
- SB 290-FN-LOCAL**, relative to wellness programs in public schools. (Flanders, Dist 7: Education)  
 11, K 289
- SB 291-FN**, relative to food service licensure for youth camps. (Martel, Dist 18; et al: Executive Departments and Administration)  
 11, K 194
- SB 292-FN**, relative to permits for combustion of certain waste. (Larsen, Dist 15; et al: Energy and Economic Development)  
 11, LT 393
- SB 293-FN-A**, repealing an exemption from the communications services tax. (D'Allesandro, Dist 20: Finance)  
 12, K 241-242
- SB 294-FN-A**, authorizing 7 additional state troopers and making an appropriation therefor. (D'Allesandro, Dist 20; et al: Finance)  
 12, psd (RC) 242-247, 268, conc H am 1402-1403, enr 1573 (Chapter 218)
- SB 295-FN**, relative to registration of business entities. (Flanders, Dist 7; S. Francoeur, Rock 15: Internal Affairs)  
 12, psd 181, 190, conc H am 1408-1409, enr am 1582-1583, enr 1609 (Chapter 316)
- SB 296-FN**, relative to recovery of public assistance. (Clegg, Dist 14; et al: Health and Human Services)  
 12, Finance 179, psd 305, 353, H conc 822, enr 915 (Chapter 45)

- SB 297-FN**, establishing a new position and relative to the realignment of functions in the department of corrections. (D'Allesandro, Dist 20; Fuller Clark, Dist 24: Executive Departments and Administration)  
12, K 299
- SB 298-FN**, relative to motor vehicle fines. (Morse, Dist 22; et al: Finance)  
12, am 675-677, psd 751, H nonconc 1044
- SB 299-FN**, relative to health insurance rate changes. (Fuller Clark, Dist 24; et al: Banks and Insurance)  
12, K 279
- SB 300-FN-A-LOCAL**, exempting certain transfers of real estate between charitable organizations from the real estate transfer tax. (Burling, Dist 5: Ways and Means)  
12, am 352-353, psd 353, conc H am 1416, enr 1573 (Chapter 219)
- SB 301-FN**, relative to pooled risk management programs for municipalities and public entities. (Clegg, Dist 14; et al: Banks and Insurance)  
12, SO 276, K (RC) 362-368
- SB 302-FN**, relative to real estate brokers. (Gallus, Dist 1: Executive Departments and Administration)  
12, am & Finance 234-235, psd 412, 457, H nonconc 1040
- SB 303-FN**, relative to elective angioplasty. (Martel, Dist 18: Health and Human Services)  
12, K 306-307
- SB 304**, relative to negotiating provider payments by the commissioner of the department of health and human services. (Green, Dist 6: Ways and Means)  
**New title:** relative to provider payments negotiated by the commissioner of the department of health and human services.  
12, Finance 451-455, am 677-678, psd 751, H nonconc 1391
- SB 305-FN**, relative to the regulation of recreational therapists. (Estabrook, Dist 21; et al: Executive Departments and Administration)  
12, am & Finance 235-238, psd 524, 542, conc H am 1403, enr 1573 (Chapter 220)
- SB 306-FN-A**, establishing a quality early learning opportunity initiative and making an appropriation therefor. (Estabrook, Dist 21; et al: Education)  
13, Finance 289-291, am 678, psd 751, nonconc H am 1403
- SB 307-FN**, relative to catastrophic special education funding. (Estabrook, Dist 21; et al: Education)  
13, am & Finance 291-292, K (RC) 524-526
- SB 308-FN-A-LOCAL**, making an appropriation for school building aid. (Estabrook, Dist 21; et al: Finance)  
13, psd 526, 542, H conc 1392, enr 1463 (Chapter 158)
- SB 309-FN-A**, granting retirement benefits to certain retired judges, and making an appropriation therefor. (Hassan, Dist 23: Executive Departments and Administration)  
**New title:** establishing a commission to study inclusion of service as a part-time district court judge in the calculation of retirement benefits.  
13, am & Finance 299-301, LT 527
- SB 310-FN**, establishing gold star number plates. (Barnes, Dist 17; et al: Transportation and Interstate Cooperation)  
**New title:** establishing gold star number plates and relative to special number plates for veterans.  
13, am 266-268, psd 269, nonconc H am 1415
- SB 311-FN**, relative to disclosure of the results of clinical trials. (Barnes, Dist 17; et al: Health and Human Services)  
13, K 179-180
- SB 312-FN**, relative to notice of rulemaking by the real estate appraiser board. (Barnes, Dist 17; Charron, Rock 7: Executive Departments and Administration)  
13, K 194-195
- SB 313-FN**, relative to the exemptions for the practice of massage therapy. (Fuller Clark, Dist 24; et al: Executive Departments and Administration)  
13, K 301

- SB 314-FN-LOCAL**, establishing minimum renewable standards for energy portfolios. (Fuller Clark, Dist 24; et al: Energy and Economic Development)  
13, am & Finance (RC) 393-402, am 620-621, psd 751, H nonconc 1044
- SB 315-FN-A-LOCAL**, repealing the statewide enhanced education tax. (Fuller Clark, Dist 24; et al: Finance)  
13, K (RC) 195-203
- SB 316-FN-LOCAL**, requiring interpretation services upon request for persons receiving medical treatment. (Fuller Clark, Dist 24; et al: Health and Human Services)  
13, LT 251-252, (RC) 520
- SB 317-FN**, establishing an occupational and professional regulation screening and appeals board to review complaints to and decisions by occupational and professional regulatory boards. (Green, Dist 6; R. Wheeler, Hil 7: Public and Municipal Affairs)  
**New title:** establishing a screening panel to review complaints to occupational and professional regulatory boards and establishing an appeals board to review decisions by occupational and professional regulatory boards.  
13, am & Finance 318-328, am (RC) 608-611, psd 752, H nonconc 1040
- SB 318-FN**, relative to the use of deadly force to protect oneself. (Bragdon, Dist 11; et al: Judiciary)  
14, SO 276, psd (RC) 376-388, 457, H conc 1043, enr 1393, Veto sustained (RC) 1617-1619
- SB 319**, establishing a statutory county government commission. (Burling, Dist 5; et al: Public and Municipal Affairs)  
**First new title:** establishing a task force to study county government.  
**Second new title:** establishing a task force to study county government, and relative to prohibiting filing with the registry of deeds a document that includes an individual's social security number or financial information.  
14, am 185-187, psd 190, conc H am 1412, enr 1573 (Chapter 221)
- SB 320**, relative to investigations of cruelty to horses. (Roberge, Dist 9; et al: Public and Municipal Affairs)  
14, K 328-329
- SB 321**, relative to delinquency proceedings for juveniles committing felony cruelty to animals. (Roberge, Dist 9; et al: Judiciary)  
14, K 694
- SB 322**, establishing the business loan enhancement program. (Odell, Dist 8; et al: Finance)  
**New title:** establishing the business loan enhancement program and relative to the capital asset backed guarantee program.  
14, SO 148, LT 193, am 222-223, psd 224, H conc 1392, enr 1463 (Chapter 157)
- SB 323**, establishing a legislative youth advisory council. (Odell, Dist 8; et al: Public and Municipal Affairs)  
14, psd 445, 457, conc H am 1412, enr am 1583, enr 1611 (Chapter 270)
- SB 324**, requiring notification concerning certain offenders against children. (Letourneau, Dist 19; et al: Judiciary)  
14, psd 694-695, 752, H LT 1040
- SB 325**, making technical corrections to motor vehicle laws. (Letourneau, Dist 19; et al: Transportation and Interstate Cooperation)  
**New title:** making technical corrections and other changes to motor vehicle laws.  
14, am 348-349, psd 353, conc H am 1416, enr am 1583-1584, enr 1609 (Chapter 317)
- SB 326**, relative to a temporary moratorium on large groundwater permits and withdrawals. (Estabrook, Dist 21; et al: Energy and Economic Development)  
14, K 136-140
- SB 327**, establishing the New Hampshire civil war cannon restoration fund. (Letourneau, Dist 19; et al: Public and Municipal Affairs)  
14, psd 445-446, 457, conc H am 1413, enr 1573 (Chapter 244)
- SB 328**, relative to the regulation of snowmobiles and off highway recreational vehicles. (Flanders, Dist 7; et al: Environment and Wildlife)  
14, psd 141, 190, H conc 913, enr 1041 (Chapter 90)

- SB 329**, prohibiting dogs from being left alone in cars. (Roberge, Dist 9; et al: Public and Municipal Affairs)  
15, K 259
- SB 330**, relative to outdoor advertising. (Letourneau, Dist 19; et al: Energy and Economic Development)  
15, LT 140, psd 219-220, 224, H nonconc 913
- SB 331**, relative to certain small loans. (Foster, Dist 13; et al: Banks and Insurance)  
15, am & LT 658-661
- SB 332**, making technical corrections to the uniform trust code and related statutes. (Foster, Dist 13; et al: Judiciary)  
15, am 182, psd 190, H conc 913, enr 1041 (Chapter 91)
- SB 333**, relative to inquiries of DWI defendants regarding establishments serving alcohol to the defendants. (Foster, Dist 13; et al: Judiciary)  
15, am 435-436, psd 457, H nonconc 913
- SB 334**, authorizing the use of a credit freeze as a means of deterring identity theft. (Gottesman, Dist 12; et al: Judiciary)  
15, am 309-316, psd 353, conc H am 1411, enr 1573 (Chapter 208)
- SB 335**, relative to funds of the department of resources and economic development used for snowmobile trail grooming equipment. (Gallus, Dist 1; et al: Environment and Wildlife)  
15, psd 141-142, 190, H conc 1043, enr 1393 (Chapter 123)
- SB 336**, relative to security deposits in landlord tenant matters. (Gallus, Dist 1; et al: Public and Municipal Affairs)  
15, am 260, psd 269, nonconc H am, conf 1413, rep adop 1559, 1571, enr 1610 (Chapter 296)
- SB 337**, relative to the sale and repurchase of property acquired by tax deed. (Gallus, Dist 1; et al: Public and Municipal Affairs)  
15, psd 446-448, 457, H study 1040
- SB 338**, relative to insurance coverage for children's early intervention therapy services. (Hassan, Dist 23; et al: Banks and Insurance)  
15, LT 661
- SB 339**, changing certain job titles and responsibilities in the department of transportation. (Morse, Dist 22: Executive Departments and Administration)  
15, Finance 409-410, am 679-680, psd 752, nonconc H am, conf 1403-1404, (K – conf rep not signed)
- SB 340**, establishing a legislative health care advisory board. (Fuller Clark, Dist 24; et al: Health and Human Services)  
15, K 307-308
- SB 341**, extending by one year the advisory-only period for OBD II testing. (Morse, Dist 22; et al: Transportation and Interstate Cooperation)  
**New title:** relative to the applicability of OBD II testing requirements.  
16, psd 740-741, 752, conc H am 1416, enr 1573 (Chapter 222)
- SB 342**, relative to the treatment of glaucoma by optometrists, and eliminating the joint pharmaceutical formulary and credentialing committee. (Martel, Dist 18; et al: Executive Departments and Administration)  
**New title:** relative to the treatment of glaucoma by optometrists.  
16, am 668-673, psd 752, H conc 1040, enr am 1420, enr 1464 (Chapter 182)
- SB 343**, relative to emergency contraception. (Letourneau, Dist 19; et al: Health and Human Services)  
16, K (RC) 491-497
- SB 344**, establishing a committee to study state benefit programs for national guard members. (Barnes, Dist 17: Public and Municipal Affairs)  
16, psd 212-213, 224, H conc 913, enr 914 (Chapter 66)
- SB 345**, establishing a lobbying commission and relative to lobbyist registration and financial disclosure requirements. (Estabrook, Dist 21; et al: Internal Affairs)

- New title:** relative to lobbyist registration requirements.  
16, LT 308, am 746-750, psd 752, H nonconc 1044
- SB 346-FN**, codifying certain septic system rules. (Fuller Clark, Dist 24; et al: Public and Municipal Affairs)  
**New title:** relative to septage management activities.  
16, am & Finance 329-334, K 680
- SB 347**, establishing a committee to study the state employee health insurance plan. (Fuller Clark, Dist 24; et al: Banks and Insurance)  
16, K 279
- SB 348**, prohibiting the taking of arms and ammunition in a declared state of emergency. (Bragdon, Dist 11; et al: Public and Municipal Affairs)  
16, am 187-188, psd 190, H conc 1043, enr 1393 (Chapter 124)
- SB 349**, relative to the HIV/AIDS service delivery system. (Estabrook, Dist 21; et al: Health and Human Services)  
16, psd 180, 190, H conc 822, enr 915 (Chapter 46)
- SB 350-FN**, relative to boarding kennels and relative to dog grooming. (Roberge, Dist 9; et al: Executive Departments and Administration)  
**New title:** relative to boarding kennels.  
16, am & Finance 238-241, psd (RC) 527, 542, H nonconc 822
- SB 351-FN**, declaring drowning as cruelty to animals. (Roberge, Dist 9; et al: Environment and Wildlife)  
16, am 142, psd 190, H nonconc 1044
- SB 352-FN**, relative to the regulation of real estate appraisers. (Gallus, Dist 1; et al: Executive Departments and Administration)  
17, am & Finance 410-412, psd 621-622, 752, nonconc H am, conf 1401, rep adop 1559, 1571, enr am 1584, enr 1609 (Chapter 318)
- SB 353-FN**, relative to registration of criminal offenders convicted of homicide. (Gallus, Dist 1; et al: Judiciary)  
17, am & Finance 316-318, psd 527, 542, H study 1040
- SB 354-FN**, requiring security officers of the New Hampshire hospital security force to be fully certified as police officers and including such security officers in group II of the New Hampshire retirement system. (Clegg, Dist 14; et al: Executive Departments and Administration)  
17, am & Finance 301-302, psd 680-681, 752, H LT 1043
- SB 355-FN**, relative to unlawful possession of alcohol by a minor. (Roberge, Dist 9; et al: Judiciary)  
17, am (RC) 436-440, psd 457, H study 1043
- SB 356-FN**, relative to undue hardship knowingly caused by persons aiding in the transfer of assets. (Clegg, Dist 14; et al: Judiciary)  
17, K 440-441
- SB 357-FN**, relative to eligibility for motorcycle licenses. (Letourneau, Dist 19; et al: Transportation and Interstate Cooperation)  
17, am & Finance 189, psd 247, 269, H conc 1040, enr 1042 (Chapter 74)
- SB 358-FN**, relative to an advanced registered nurse practitioner's duty to warn of violent acts of patients. (Martel, Dist 18; et al: Health and Human Services)  
**New title:** relative to a nurse's duty to warn of violent acts of patients.  
17, Finance 180, psd 247, 269, nonconc H am, conf 1408, rep adop 1559-1560, 1571, enr 1610 (Chapter 297)
- SB 359-FN**, relative to the regulation of plumbers and water treatment technicians by the plumbers' board. (Larsen, Dist 15; et al: Public and Municipal Affairs)  
17, am 334-343, psd 353, nonconc H am, conf 1413-1414, rep adop 1560, 1571, enr am 1585, enr 1609 (Chapter 319)
- SB 360-FN-A**, establishing a surcharge on real estate transfers for deposit in the family stability fund and renaming the homeless prevention program the family stability program. (D'Allesandro, Dist 20; et al: Public and Municipal Affairs)  
17, LT 213-214



- SB 361-FN**, relative to the use of surplus funds by a school district. (Odell, Dist 8; Kidder, Mer 1: Education)  
**New title:** relative to school district contingency funds.  
17, am & Finance 292-293, K 622
- SB 362-FN**, relative to a tuition reduction for certain students taking courses at a regional community-technical college. (Gallus, Dist 1; et al: Education)  
17, K 293-294
- SB 363-FN-A-LOCAL**, requiring the department of revenue administration to cease collection of any Internet-related communications services tax and establishing a commission to study and determine the effect of ceasing the collection of Internet-related communications services tax. (Green, Dist 6: Ways and Means)  
**New title:** prohibiting the department of revenue administration from collecting any communications services tax that is not permissible under federal law; and establishing a commission to study and determine the effect of ceasing the collection of Internet-related communications services tax.  
18, am 455-456, psd 458, nonconc H am 1416-1417
- SB 364-FN-A**, relative to funding of the fish and game search and rescue fund and making an appropriation therefor. (D'Allesandro, Dist 20; et al: Finance)  
18, am 681-682, psd 752, nonconc H am 1404-1405
- SB 365-FN**, relative to the lottery commission. (Gallus, Dist 1; et al: Executive Departments and Administration)  
18, Finance 302-305, LT 528
- SB 366-FN**, relative to issues of conflicts of interest in the provision of long-term care services. (Martel, Dist 18; et al: Health and Human Services)  
18, K 207-208
- SB 367-FN**, imposing a penalty on Medicaid providers who receive overpayments of state Medicaid funds. (Martel, Dist 18; et al: Health and Human Services)  
18, SO 276, Finance (RC) 371-376, am & SO 682-685, am 742-743, psd 752, H nonconc 1391
- SB 368-FN**, relative to life settlements. (Flanders, Dist 7; et al: Banks and Insurance)  
18, K 388-392
- SB 369**, relative to portability, availability, and renewability of health coverage. (Hassan, Dist 23; et al: Banks and Insurance)  
18, am 661-662, psd 752, H conc 1043, enr 1393 (Chapter 125)
- SB 370-FN**, relative to multidisciplinary child protection teams. (Gottesman, Dist 12; et al: Health and Human Services)  
18, Finance 181, psd 247-248, 269, H conc 1043, enr 1393 (Chapter 118)
- SB 371-FN**, relative to the continuation of certain wetlands fees. (Green, Dist 6; et al: Environment and Wildlife)  
18, Finance 57, am 148-149, psd 190, nonconc H am, conf 1405-1406, rep adop 1561, 1571, enr 1610 (Chapter 298)
- SB 372-FN**, allowing certain employees of private agencies to be treated as state employees for purposes of insurance. (Hassan, Dist 23; et al: Banks and Insurance)  
18, K 279-280
- SB 373-FN-A**, relative to a public health response to arbovirus. (Hassan, Dist 23; et al: Environment and Wildlife)  
18, am & Finance 294-297, psd 685, 752, H nonconc 1391
- SB 374-FN**, relative to the healthy kids corporation. (Green, Dist 6; et al: Finance)  
**New title:** relative to the state children's health insurance program.  
19, rcmt 529-535, remarks 535-536, am (RC) 584-589, psd 752, nonconc H am, conf 1406, rep adop 1561-1562, 1571, enr 1610 (Chapter 299)
- SB 375-FN**, relative to the executive branch code of ethics and establishing an executive branch ethics committee. (Larsen, Dist 15; Fuller Clark, Dist 24: Internal Affairs)  
19, LT 308
- SB 376-FN-A**, relative to revenues dedicated to the education trust fund. (D'Allesandro, Dist 20; et al: Ways and Means)  
19, psd 175-179, 191, nonconc H am, conf 1417, (K – conf rep not signed)

- SB 377-FN**, relative to COBRA coverage for persons 55 years of age or older. (Fuller Clark, Dist 24; et al: Banks and Insurance)  
19, K 280-281
- SB 378-FN**, relative to rates charged by health care providers. (Fuller Clark, Dist 24; et al: Banks and Insurance)  
19, K 281-283
- SB 379-FN**, relative to harm or threats to public officials. (Foster, Dist 13; Clegg, Dist 14: Judiciary)  
**New title:** relative to harm or threats to certain government officials.  
19, am 256-258, psd 269, H conc 822, enr 915 (Chapter 47)
- SB 380-FN-A**, establishing a research and development credit against the business profits tax. (Odell, Dist 8; et al: Finance)  
**New title:** establishing a research and development credit against business taxes.  
19, am 622-623, psd 752, H nonconc 1391
- SB 381-FN-A-LOCAL**, expanding business tax credits to enhance research and development. (Foster, Dist 13; Michon, Hil 25: Finance)  
19, LT 412-413
- SB 382**, relative to the guardian ad litem board. (Foster, Dist 13: Judiciary)  
19, am 513-515, psd 542, H conc 1043, enr am 1455-1456, enr 1573 (Chapter 223)
- SB 383**, limiting liability of community land trusts which own certain hazardous property. (Burling, Dist 5: Environment and Wildlife)  
19, K 233-234
- SB 384-FN-A-LOCAL**, establishing an exemption from the real estate transfer tax for certain transfers of family farm and forest land. (Johnson, Dist 2; et al: Finance)  
**New title:** establishing a temporary one-time exemption from the real estate transfer tax for certain transfer of family farm or open space land.  
19, am 685-687, psd 752, H nonconc 1391
- SB 385-FN**, relative to the membership and administration of the board of trustees of the New Hampshire retirement system, and relative to supplemental allowances. (Green, Dist 6; et al: Finance)  
19, LT 611-613
- SB 386**, relative to large groundwater withdrawals. (Green, Dist 6; et al: Environment and Wildlife)  
20, am (RC) 481-487, psd 542, conc H am 1399-1400, enr am 1585, enr 1609 (Chapter 322)
- SB 387**, relative to energy efficiency loans and guarantees by the business finance authority. (Burling, Dist 5; et al: Finance)  
20, psd 149, 191, H conc 1392, enr 1463 (Chapter 159)
- SB 388**, relative to farm composting. (Odell, Dist 8; Babson, Car 3: Environment and Wildlife)  
**New title:** relative to farm composting and pesticides.  
20, am 142-143, psd 191, nonconc H am, conf 1400, rep adop 1562-1563, 1571, enr am 1586, enr 1609 (Chapter 326)
- SB 389**, establishing a committee to study energy efficiency programs funded by the system benefits charge. (Burling, Dist 5; et al: Internal Affairs)  
**New title:** establishing a committee to study programs funded by the system benefits charge.  
20, psd 210-211, 224, conc H am 1409, enr 1464 (Chapter 183)
- SB 390**, relative to membership of the board of tax and land appeals. (Johnson, Dist 2; Gallus, Dist 1: Public and Municipal Affairs)  
20, LT 448-450, SO 540-541, K (RC) 551-554
- SB 391-FN**, relative to insurance third party administrators. (Flanders, Dist 7; et al: Banks and Insurance)  
20, am & Finance 284-285, remarks 286, psd 687, 752, conc H am 1396, enr am 1586, enr 1611 (Chapter 271)

- SB 392-FN-A**, relative to the payment of Medicare Part D phased down state contribution, known as “clawback.” (Morse, Dist 22; et al: Finance)  
rules suspended & psd 2-4, H conc & enr 20 (Chapter 1)
- SB 393-FN-A**, relative to the temporary provision of assistance to persons eligible for both Medicaid and Medicare services and making an appropriation therefor. (Clegg, Dist 14; et al)  
emergency session, rules suspended, intro, psd, H conc & enr 25-28 (Chapter 2)
- SB 394**, establishing the Trust Modernization and Competitiveness Act. (D’Allesandro, Dist 20; et al: Judiciary)  
25, am 695-740, psd 752, conc H am 1411, enr am 1586-1588, enr 1609 (Chapter 320)
- SB 395**, relative to the number of children in a licensed foster home. (Barnes, Dist 17; et al: Health and Human Services)  
25, am 689, psd 752, H conc 913, enr 1041 (Chapter 92)
- SB 396**, repealing the rulemaking authority of the New Hampshire children’s trust fund board. (Larsen, Dist 15; et al: Banks and Insurance)  
25, psd 285-286, 354, H conc 822, enr 915 (Chapter 48)
- SB 397-FN-A**, establishing a temporary energy tax credit against the business enterprise tax. (Morse, Dist 22; et al: Finance)  
113, psd (RC) 590-598, 752, H nonconc 1391
- SB 398-FN**, relative to political contributions and expenditures. (Barnes, Dist 17; et al: Public and Municipal Affairs)  
113, am & Finance (RC) 260-265, psd 535-539, 542, H nonconc 1044
- SB 399-FN**, relative to the powers of state government in the event of a pandemic. (Clegg, Dist 14; et al: Public and Municipal Affairs)  
192, am & Finance 343-347, am 539, psd 542, nonconc H am 1406-1407
- SB 400-FN**, relative to highway welcome signs. (Letourneau, Dist 19; et al: Transportation and Interstate Cooperation)  
192, am 349-352, psd 354, H conc 1392, enr 1463 (Chapter 160)
- SB 401-FN**, relative to the Hanover-Lebanon District Court. (Burling, Dist 5; et al: Judiciary)  
**New title:** establishing a committee to study the weighted caseload system.  
192, LT, am & LT 441-444
- SB 402-FN-A**, relative to payment of unreimbursed storm-related damages incurred by the town of Hanover and affected surrounding towns and making an appropriation therefor. (Burling, Dist 5; et al: Finance)  
192, LT 687-688
- SB 403**, relative to verification of identity when a person registers or attempts to vote. (Green, Dist 6; et al: Public and Municipal Affairs)  
275, am (RC) 614-620, psd 752, nonconc H am, conf 1414, 1463, rep adop (RC) 1563-1571, enr 1610 (Chapter 300)
- SB 404**, relative to retirement benefits, optional benefits, and the collection of overpayments by the Manchester employees’ contributory retirement system. (Martel, Dist 18; et al: Public and Municipal Affairs)  
**New title:** relative to retirement benefits, service credits, and administration of the Manchester employees’ contributory retirement system.  
275, am 516-518, psd 542, H conc 1040, enr 1192 (Chapter 115)
- SB 405**, relative to the acceptance of certain tax-sheltered funds by the Manchester employees’ contributory retirement system. (Martel, Dist 18; et al: Public and Municipal Affairs)  
275, psd 518, 542, H conc 1043, enr am 1456, enr 1573 (Chapter 224)
- SB 406-FN-A**, establishing a manufacturer’s tax on cigarettes sold in New Hampshire. (Clegg, Dist 14; Gatsas, Dist 16: Finance)  
354, LT 623-632
- SB 407-FN-A**, relative to enforcement of labor statutes under current federal immigration laws. (Green, Dist 6; et al: Finance)  
354, am (2 RCs) 598-608, psd 752, H study 913

## 2006 SPECIAL SESSION

- SB 1**, relative to preparation of 2006 state general election ballots. (Clegg, Dist. 14, O'Neil, Rock 15)  
intro & psd (RC) 1628-1631, (K, amended in House, but no further action)

## 2006 SENATE JOINT RESOLUTION

- SJR 4**, urging Congress to require the Department of Defense to reinstate the terminology of "POW" or "Prisoner of War" into the classification of military personnel. (Barnes, Dist 17; et al: Public and Municipal Affairs)  
20, psd (RC) 214-218, 224, recon & psd (RC) 231, 269, H conc 913, enr 914 (Chapter 67)

## 2005 SENATE CONCURRENT RESOLUTION REREFERRED TO COMMITTEE

- SCR 3**, relative to the Boy Scouts of America. (Public and Municipal Affairs)  
conc H am 111

## 2006 SENATE CONCURRENT RESOLUTIONS

- SCR 6**, urging Congress to take legislative action regarding embryonic stem cell research. (Estabrook, Dist 21; et al: Health and Human Services)  
**New title:** urging Congress to support stem cell research.  
20, am (2 RCs) 497-506, adop 542, nonconc H am (RC) 1407-1408
- SCR 7**, urging Congress to amend the No Child Left Behind Act. (Estabrook, Dist 21; et al: Education)  
20, SO 276, K (RC) 368-371
- SCR 8**, declaring the general court in opposition to the federal Real ID Act of 2005. (Estabrook, Dist 21; et al: Internal Affairs)  
25, LT (RC) 414-415

## 2006 SENATE RESOLUTION

- SR 3**, noting objections to certain issues regarding "Clawback" and requesting that corrective measures be taken to limit its negative financial consequences. (Larsen, Dist 15; et al)  
intro & adop 110

## 2006 HOUSE ADDRESS

- HA 1**, an address for the removal of Kenneth R. McHugh, superior court justice, from office.  
H K 1392

## 2005 HOUSE BILLS

- HB 37-FN**, relative to health insurance coverage for full-time students on medical leaves of absence. (Banks and Insurance)  
23, am (RC) 774-777, psd 820, H nonconc, conf 1396, rep adop 1465-1466, 1575, enr am 1588-1589, enr 1611 (Chapter 321)
- HB 56**, relative to food safety in restaurants. (Health and Human Services)  
K 5
- HB 66**, regulating mandatory overtime for nurses and assistants. (Internal Affairs)  
K (RC) 106-108
- HB 76**, relative to distribution of state aid to charter schools. (Finance)  
**First new title:** relative to distribution of state aid to charter schools; relative to establishing the 21<sup>st</sup> century scholars program and making an appropriation therefor; and relative to funding for charter schools.  
**Second new title:** relative to distribution of state aid to charter schools and relative to funding for charter schools.  
226, am (3 RCs) 1306-1317, psd 1388, H nonconc, conf 1432-1433, rep adop 1466-1469, 1575, enr am 1589, enr 1611 (Chapter 301)

- HB 84**, relative to compensation of county convention members for county business. (Health and Human Services)  
K 5
- HB 100-FN-A-L**, amending the formula for funding public education. (Finance)  
23, psd (RC) 203-206, 224, enr 275 (Chapter 6)
- HB 115**, allowing pharmacists to establish collaborative practice agreements with medical practitioners. (Executive Departments and Administration)  
23, psd 843-844, 911, enr am 1420-1421, enr 1463 (Chapter 164)
- HB 121**, relative to local land use approval for facilities requiring certain pollution control permits. (Public and Municipal Affairs)  
23, K 810
- HB 126**, relative to a public employee right of free speech. (Public and Municipal Affairs)  
K 5
- HB 153-FN**, relative to the collection of debts owed to the state. (Banks and Insurance)  
am & Finance 41-44, am (RC) 149-163, psd 191, H nonconc 1454
- HB 162**, relative to general rules for vessels operating on water. (Transportation and Interstate Cooperation)  
226, K (RC) 467-475
- HB 175**, relative to divestiture of PSNH generation assets, establishing an energy policy task force, and establishing a fund for the costs of the energy policy task force. (Energy and Economic Development)  
23, LT 232-233
- HB 177**, relative to home improvement contracts. (Public and Municipal Affairs)  
SO 109, am & LT (2 RCs) 115-132
- HB 203-FN**, relative to the regulation of tracking devices and establishing a commission on the use of tracking devices. (Public and Municipal Affairs)  
**New title:** establishing a commission on the use of radio frequency technology.  
114, am 877-887, psd 911, H conc 1452, enr 1463 (Chapter 165)
- HB 220**, establishing a committee to study the ability of homeless youth in New Hampshire to make a successful transition to adulthood. (Health and Human Services)  
K 5
- HB 221**, relative to eligibility for absentee ballots. (Internal Affairs)  
23, am 855-856, psd 911, H conc 1392, enr 1462 (Chapter 136)
- HB 234-FN**, relative to the development of a state and political subdivision information network. (Internal Affairs)  
23, Finance 308, K 847
- HB 254-FN**, establishing lifetime licenses for bow and arrow, muzzle loading firearm, and crossbow licenses. (Environment and Wildlife)  
272, psd 789, 820, enr 914 (Chapter 50)
- HB 270**, relative to procedures of the legislative ethics committee. (Internal Affairs)  
LT 109
- HB 278**, relative to the alternative budget procedure in school administrative units. (Education)  
226, K 785
- HB 294**, relative to annulment of arrest records. (Judiciary)  
K 5
- HB 298**, relative to consolidating statutes relating to driving while intoxicated. (Judiciary)  
549, psd 1248-1249, 1388, enr am 1589-1590, enr 1610 (Chapter 260)
- HB 301-L**, relative to parent advisory councils for pupils with educational disabilities. (Education)  
K 5
- HB 312**, relative to the appointment of parenting coordinators. (Health and Human Services)  
23, LT 506

- HB 317-FN**, relative to mooring fees. (Ways and Means)  
756, psd 911, enr 1041 (Chapter 75)
- HB 325**, relative to proceedings under the Child Protection Act. (Health and Human Services)  
23, LT 506-507
- HB 331**, relative to restraining dogs and relative to livestock working dogs. (Environment and Wildlife)  
23, psd 194, 224, enr 275 (Chapter 11)
- HB 334**, relative to the type of notice provided in court proceedings. (Judiciary)  
23, am 182-183, psd 191, H conc 823, enr 915 (Chapter 37)
- HB 339**, relative to electioneering at polling places. (Internal Affairs)  
K 5
- HB 345**, requiring photo identification to obtain a ballot. (Internal Affairs)  
226, psd (RC) 856-864, 911, enr 1041, H sustained veto 1619
- HB 347**, relative to indicating citizenship on drivers' licenses and nondrivers' identification cards. (Transportation and Interstate Cooperation)  
226, LT 1010-1011
- HB 349**, relative to placement and removal of political advertising. (Internal Affairs)  
23, am & Finance 689-690, am 797-798, psd 820, H nonconc, conf 1409, rep adop 1469-1470, 1575, enr 1611 (Chapter 273)
- HB 354**, relative to the review, approval, and adoption of agency rules. (Internal Affairs)  
H sustained veto 1
- HB 365**, relative to recount fees. (Internal Affairs)  
K 109
- HB 371**, relative to mercury reduction. (Energy and Economic Development)  
K 5
- HB 372**, relative to notification of interested parties in medical parole cases. (Judiciary)  
K 33
- HB 380**, relative to absentee voting. (Internal Affairs)  
23, Finance 252-253, psd 413, 458, enr am 1421, enr 1463 (Chapter 166)
- HB 385**, establishing a committee to study the adequacy of current substance abuse treatment available in the state prison system. (Public and Municipal Affairs)  
**New title:** establishing a commission to study certain issues related to health and human services.  
23, LT 740, am 1379-1380, psd 1388, H conc 1452, enr 1571 (Chapter 188)
- HB 391**, relative to election affidavits. (Internal Affairs)  
226, psd (RC) 969-971, 1037, enr 1191 (Chapter 94)
- HB 397**, relative to authority to file an abuse or neglect petition under the Child Protection Act. (Judiciary)  
114, K 1249
- HB 406**, revising certain provisions of the home education statutes. (Education)  
psd (2 RCs) 46-52, 112, enr am 221, enr 354 (Chapter 13)
- HB 410**, relative to the confidentiality of documents submitted with an application for a property tax credit, exemption, or deferral. (Public and Municipal Affairs)  
23, psd 740, 752, enr 757 (Chapter 30)
- HB 413**, relative to the appointment of the chief justice of the superior court and the number of superior court associate justices. (Judiciary)  
24, am 183-184, psd 191, H conc 823, enr 915 (Chapter 38)
- HB 443**, relative to the statute of limitations for fire code violations. (Judiciary)  
K 5
- HB 459**, relative to access to criminal records and enhanced 911 system records. (Judiciary)  
114, psd 1249, 1388, enr 1462 (Chapter 137)
- HB 460-FN**, relative to the reimbursement to certain providers by the bureau of emergency communications. (Energy and Economic Development)  
am 91-98, psd 112, H conc 823, enr 915 (Chapter 49)

- HB 489-FN**, relative to disclosing an ownership interest in certain health care facilities and businesses. (Executive Departments and Administration)  
24, K 794
- HB 498**, establishing a study committee relative to the sale of fire-safe cigarettes. (Public and Municipal Affairs)  
K 5
- HB 501**, relative to citizenship and domicile affidavits. (Internal Affairs)  
24, K 971
- HB 505**, relative to recording mailing addresses on property deeds. (Public and Municipal Affairs)  
psd 109, 112, enr 113 (Chapter 7)
- HB 506**, including employees of charitable organizations under the protection of the state law against discrimination. (Public and Municipal Affairs)  
114, am 1214-1215, psd 1388, H nonconc, conf 1441, rep adop 1470-1471, 1575, enr 1611 (Chapter 274)
- HB 515**, relative to purchasing alliances. (Banks and Insurance)  
24, K 286-287
- HB 529**, relative to the determination of parental rights and responsibilities. (Judiciary)  
24, am (RC) 1249-1250, psd 1388, H nonconc, conf 1437-1438 (K – conf rep not signed)
- HB 533-FN**, relative to penalties for aggravated felonious sexual assault. (Judiciary)  
K 34
- HB 538**, relative to deconstruction of structures. (Environment and Wildlife)  
24, K 297-298
- HB 544**, relative to the land and community heritage program. (Environment and Wildlife)  
24, am 298, psd 354, H conc 823, enr 915 (Chapter 39)
- HB 561**, relative to reasonable accommodation by employers under the state law against discrimination. (Banks and Insurance)  
K 5
- HB 574-FN**, requiring the reporting of burn injuries. (Judiciary)  
K 5
- HB 578**, relative to the current use advisory board and relative to construction or development constituting a change in use for purposes of assessing the land use change tax. (Environment and Wildlife)  
24, LT 298-299
- HB 581**, relative to approval and review of municipal charters. (Public and Municipal Affairs)  
24, psd 518, 542, enr 751 (Chapter 22)
- HB 582**, relative to the policy for records management. (Executive Departments and Administration)  
**New title:** relative to management of electronic records by the department of state, and relative to departmental salaries.  
am & Finance 53-55, psd 163-164, 191, H nonconc, conf 1397, rep adop 1471, 1575, enr 1611 (Chapter 275)
- HB 587**, relative to child abuse and neglect investigations by the department of health and human services. (Judiciary)  
24, am 1250-1251, psd 1388, H nonconc, conf 1438, rep adop 1471-1473, 1575, enr 1611 (Chapter 276)
- HB 588**, relative to suspension of drivers' licenses after a motor vehicle accident. (Judiciary)  
226, K 1251
- HB 590**, excluding stepchildren from the definition of "child" in the context of support orders. (Health and Human Services)  
114, psd (RC) 507-512, 542, enr am 1421-1422, enr 1464 (Chapter 185)

- HB 591**, relative to the inclusion of health insurance in the calculation of child support. (Judiciary)  
24, K 1252
- HB 592**, relative to the child support guidelines. (Judiciary)  
**New title:** relative to minimum support orders.  
24, am 1252, psd 1388, H conc 1452, enr 1571 (Chapter 189)
- HB 599-FN**, requiring disclosure to consumers of the presence of event data recording devices in new motor vehicles. (Transportation and Interstate Cooperation)  
am & Finance 39-41, rcmt & ref to Ways & Means 164, am 248-249, psd 269, H conc 1040, enr 1191 (Chapter 95)
- HB 604-FN**, discontinuing the use of tokens. (Transportation and Interstate Cooperation)  
K 5
- HB 611-FN**, relative to small group insurers. (Banks and Insurance)  
K 5
- HB 621-FN**, requiring disclosure of gifts and campaign contributions by lobbyists. (Public and Municipal Affairs)  
226, LT 810
- HB 624-FN**, relative to penalties in certain health and health-related professions. (Executive Departments and Administration)  
460, psd 844, 912, enr 1041 (Chapter 76)
- HB 626-FN-L**, relative to the right-to-know law. (Public and Municipal Affairs)  
227, rcmt 887-895, LT 1263-1271
- HB 627-FN**, relative to including persons 17 years old in the juvenile justice system. (Judiciary)  
**New title:** relative to extended jurisdiction over certain 17 year old offenders.  
756, am & Finance 977-978, psd 1044, 1189, H conc 1452, enr 1571 (Chapter 190)
- HB 638-FN**, relative to county and state financing of nursing home services. (Finance)  
114, am 1318-1322, psd 1388, H nonconc, conf 1433, remarks 1555-1556 (K – conf rep not signed)
- HB 645-FN**, relative to fire-safer cigarettes. (Public and Municipal Affairs)  
**New title:** relative to reduced cigarette ignition propensity.  
114, Finance 518-520, am 1044-1050, psd 1189, H conc 1452, enr 1571 (Chapter 195)
- HB 649-FN-A-L**, establishing a commission to study the costs and funding of medicolegal investigations and autopsies. (Finance)  
24, am 413-414, psd 458, H conc 823, enr 915 (Chapter 40)
- HB 653-FN-L**, relative to bonds for construction, development, improvement, and acquisition of broadband facilities. (Energy and Economic Development)  
114, psd (RC) 402-405, 458, enr am 1422, enr 1571 (Chapter 225)
- HB 656-FN**, relative to medical decision making for those adults without capacity to make health care decisions for themselves and establishing procedures for Do Not Resuscitate Orders. (Judiciary)  
272, am 978-999, psd 1037, H nonconc, conf 1438-1439, rep adop 1473-1493, 1575, enr am 1590, enr 1611 (Chapter 302)
- HB 657-FN-L**, relative to promoting community revitalization. (Public and Municipal Affairs)  
227, psd 810, 820, enr am 1422-1423, enr 1464 (Chapter 167)
- HB 669-FN**, establishing a committee to study state laboratory water tests and fees for such tests collected by the department of environmental services. (Energy and Economic Development)  
227, LT 478-479
- HB 678-FN**, relative to the insurance premium tax. (Banks and Insurance)  
756, Finance 918-919, am (2 RCs) 1322-1326, psd 1388, H nonconc, conf 1433-1434, rep adop 1493, 1575, enr 1611 (Chapter 277)
- HB 688-FN**, relative to the regulation of mental health practitioners and the procedures of the board of mental health. (Health and Human Services)  
227, psd 958-959, 1037, enr am 1423, enr 1464 (Chapter 168)



- HB 689-FN**, relative to the jurisdiction of the New Hampshire commission for human rights over housing discrimination cases. (Public and Municipal Affairs)  
24, Finance 1007-1008, psd 1050, 1189, enr 1450 (Chapter 126)
- HB 690-FN**, relative to aid to the needy blind and relative to undue hardship for public assistance. (Finance)  
**First new title:** relative to aid to the needy blind to undue hardship for public assistance, and to eligibility for and recovery of public assistance.  
**Second new title:** relative to aid to the needy blind, undue hardship for public assistance, and eligibility for and recovery of public assistance.  
356, am 847-849, psd 912, H conc 1452, enr am 1591, enr 1610 (Chapter 278)
- HB 696-FN**, relative to enhanced penalties for certain crimes against the elderly and persons with disabilities. (Judiciary)  
K 34
- HB 702-FN**, relative to the screening and mediation of medical malpractice claims. (Judiciary)  
K 5
- HB 713-FN**, relative to a process for the request and disclosure of social security numbers. (Internal Affairs)  
24, SO 690-691, study 759
- HB 716-FN**, relative to securities regulation. (Banks and Insurance)  
227, am 919-921, psd 1037, H conc 1392, enr am 1457-1458, enr 1574 (Chapter 245)
- HB 718-FN-A**, relative to a state active duty death benefit for activated members of the New Hampshire national guard and making an appropriation therefor. (Executive Departments and Administration)  
24, Finance 673-675, am 798-800, psd 821, H conc 1392, enr 1462 (Chapter 138)
- HB 719-FN**, recodifying the Articles 1 and 7 of the Uniform Commercial Code. (Executive Departments and Administration)  
**New title:** recodifying the Articles 1 and 7 of the Uniform Commercial Code and relative to lobbyist name tags.  
24, am 487-489, psd 542, H conc 913, enr am 1423-1424, enr 1464 (Chapter 169)

## 2006 HOUSE BILLS

- HB 1108**, relative to the transfer of funds among PAUs within a department. (Finance)  
**New title:** relative to the transfer of funds among PAU's within a department and relative to the temporary provision of assistance to persons eligible for both Medicaid and Medicare services and extending the appropriation therefor.  
272, am 800-801, psd 821, H conc 1040, enr 1191 (Chapter 96)
- HB 1111**, designating the pumpkin as the New Hampshire state fruit. (Banks and Insurance)  
549, psd (RC) 916-918, 1037, enr 1191 (Chapter 93)
- HB 1113**, adding a definition of "public academy" to the definition of "high school". (Education)  
**New title:** adding a definition of "public academy" to the definition of "high school"; relative to the membership of the state advisory committee on the education of children/students with disabilities; and amending the definition of "limited English proficient pupil."  
545, am 1192-1193, psd 1388, H conc 1452, enr 1571 (Chapter 191)
- HB 1114**, relative to regulation by the board of licensure of interpreters for the deaf and hard of hearing. (Executive Departments and Administration)  
272, psd 675, 752, enr 757 (Chapter 31)
- HB 1115**, relative to the definition of resident for purposes of fish and game laws. (Environment and Wildlife)  
227, psd 405, 458, enr 541 (Chapter 14)
- HB 1116**, relative to service of the notice to quit and writ of summons in landlord tenant actions. (Judiciary)  
545, am 1253-1254, psd 1388, H conc 1452, enr 1571 (Chapter 192)

- HB 1118**, requiring paper ballots at all elections. (Internal Affairs)  
227, psd 512, 542, enr 751 (Chapter 23)
- HB 1119**, relative to naming the Richard Monahan Bridge in the town of Carroll. (Transportation and Interstate Cooperation)  
227, psd 450, 458, enr 541 (Chapter 20)
- HB 1121-L**, establishing a committee to study rulemaking and licensure issues relative to assisted living and residential care. (Health and Human Services)  
227, LT 809, am 1376-1379, psd 1388, H nonconc 1454
- HB 1122**, relative to special elections. (Internal Affairs)  
227, psd 691, 752, enr 757 (Chapter 32)
- HB 1125**, relative to the filing period for candidates at the presidential primary. (Internal Affairs)  
272, psd (RC) 777-778, 821, enr 914 (Chapter 72)
- HB 1126**, relative to licenses for first mortgage bankers, brokers, pawnbrokers, and money lenders. (Banks and Insurance)  
**New title:** relative to licenses for first mortgage bankers, brokers, pawnbrokers, and money lenders and relative to licensing of money transmitters.  
754, am 1137-1162, psd 1189, H nonconc, conf 1430, rep adop 1493-1494, 1575, enr am 1591, enr 1611 (Chapter 303)
- HB 1128-FN**, relative to definition of teacher in the New Hampshire retirement system, and relative to approval of supplemental allowances. (Banks and Insurance)  
272, psd 784-785, 821, enr 914 (Chapter 51)
- HB 1132**, relative to qualifications for the Global War on Terrorism operations service bonus payment. (Public and Municipal Affairs)  
272, psd 811, 821, enr 914 (Chapter 52)
- HB 1134**, relative to membership of the state building code review board. (Public and Municipal Affairs)  
272, LT (RC) 1226-1227
- HB 1135**, making a technical correction to the Uniform Interstate Family Support Act. (Judiciary)  
227, psd 871-872, 912, enr 1041 (Chapter 77)
- HB 1140**, establishing a committee to study the establishment and enforcement of protection zones for nesting loons. (Environment and Wildlife)  
356, LT 789-790
- HB 1146**, establishing a committee to study renewable portfolio standards. (Energy and Economic Development)
- First new title:** establishing a commission to study certain energy and environmental issues.
- Second new title:** establishing a state energy policy commission.  
356, LT 787, am 1370-1372, psd 1388, H nonconc, conf 1446, rep adop 1494-1495, 1575, enr am 1592, enr 1611 (Chapter 257)
- HB 1147**, relative to the conduct of recounts. (Internal Affairs)  
227, am 691-692, psd 753, H conc 822, enr 915 (Chapter 41)
- HB 1152**, naming a certain bridge over the Merrimack River. (Transportation and Interstate Cooperation)  
272, psd 741, 753, enr 757 (Chapter 33)
- HB 1153**, establishing a commission to study the laws and rules relating to subpoenas, summonses and complaints. (Judiciary)  
272, K 872
- HB 1154-FN**, relative to eligibility for special number plates for veterans. (Transportation and Interstate Cooperation)  
272, Finance 475, LT 802, psd 803-804, 821, enr 914 (Chapter 53)
- HB 1155**, creating a violation for failure to pay a highway toll. (Transportation and Interstate Cooperation)  
460, psd 1011, recon & LT 1012, psd 1028, 1037, enr 1191 (Chapter 116)

- HB 1156**, changing the notification for public hearings on ski area passenger tramway rules from registered mail to first class mail. (Energy and Economic Development)  
272, psd 479, 542, enr 751 (Chapter 24)
- HB 1157**, relative to the definition of a sending district. (Education)  
356, psd 1193-1194, 1388, enr 1462 (Chapter 139)
- HB 1162**, relative to village districts. (Public and Municipal Affairs)  
272, K 895-896
- HB 1166**, relative to electronic ballot counting machines. (Internal Affairs)  
227, LT 864
- HB 1167-FN-A**, making an appropriation to the land and community heritage investment program. (Finance)  
**New title:** relative to the department of transportation pilot program for effective investment of state highway mitigation funds and making an appropriation to the land and community heritage investment program.  
756, am (2 RCs) 1050-1061, psd 1189, H conc 1452, enr am 1592, enr 1610 (Chapter 279)
- HB 1168**, establishing a commission to determine how to optimize boating safety on water bodies. (Transportation and Interstate Cooperation)  
545, LT 909-910
- HB 1172-FN**, relative to registration of political committees. (Internal Affairs)  
545, psd 971, 1037, enr 1191 (Chapter 97)
- HB 1173**, relative to designating the clerk in cities the chief elections officer for the city. (Public and Municipal Affairs)  
272, psd 896, 912, enr 1041 (Chapter 78)
- HB 1174**, requiring that voters who request a secret ballot be present at the town meeting. (Public and Municipal Affairs)  
460, psd 1008, 1038, enr 1191 (Chapter 117)
- HB 1176**, establishing a committee to study statutes relating to railroads. (Transportation and Interstate Cooperation)  
272, LT 1230-1231
- HB 1177**, prohibiting smoking in restaurants, cocktail lounges, and certain enclosed public places. (Finance)  
756, K (RC) 759-773
- HB 1179**, repealing a requirement that the department of transportation spend a certain amount for litter removal that is determined based on fees paid to the liquor commission. (Finance)  
227, psd 802, 821, enr 914 (Chapter 54)
- HB 1182-FN**, relative to the limited commercial lobster license fees. (Environment and Wildlife)  
356, am & Finance 790, psd 954, 1038, H conc 1392, enr 1462 (Chapter 140)
- HB 1184**, relative to the majority vote required for the use of bond proceeds in certain school districts or municipalities. (Public and Municipal Affairs)  
114, motion to take out of order 132, psd 133, 135, enr am 221-222, enr 354 (Chapter 12)
- HB 1185**, relative to Volunteer NH. (Executive Departments and Administration)  
227, psd 794-795, 821, enr 914 (Chapter 55)
- HB 1188**, relative to notice before entry into a condominium unit. (Public and Municipal Affairs)  
545, psd 811, 821, enr 914 (Chapter 56)
- HB 1189**, relative to audits by the legislative budget assistant. (Finance)  
756, psd 849, 912, enr 1041 (Chapter 79)
- HB 1191**, making technical corrections to the chapter governing vital records. (Public and Municipal Affairs)  
272, psd 1227, 1388, enr 1462 (Chapter 141)
- HB 1192**, relative to property and casualty insurance. (Banks and Insurance)  
545, am 1162, psd 1189, H conc 1452, enr 1571 (Chapter 196)

- HB 1194**, relative to job protection for firefighters, rescue workers, and emergency medical personnel. (Banks and Insurance)  
**First new title:** relative to job protection for firefighters, rescue workers, and emergency medical personnel, and relative to health insurance claim review and the qualifications and responsibilities of a medical director.  
**Second new title:** relative to job protection for firefighters, rescue workers, and emergency medical personnel, and relative to health insurance claim review.  
 545, am 1162-1168, psd 1189, H nonconc, conf 1430-1431, rep adop 1495-1499, 1575, enr am 1592-1593, enr 1611 (Chapter 304)
- HB 1198**, establishing a committee to study highway rest areas. (Transportation and Interstate Cooperation)  
 227, LT 451
- HB 1201**, relative to child passenger restraints. (Transportation and Interstate Cooperation)  
 356, rcmt 819, psd 1231, 1388, enr 1462 (Chapter 142)
- HB 1204**, relative to human immunodeficiency virus education, prevention and control. (Health and Human Services)  
 227, am (RC) 1209-1212, psd 1388, H nonconc 1454
- HB 1206**, relative to the assessing standards board. (Executive Departments and Administration)  
**New title:** relative to the assessing standards board, and the approval of appraisal contracts.  
 546, am 1235-1237, psd 1388, H conc 1452, enr 1571 (Chapter 193)
- HB 1209**, relative to notification requirements for criminal offenders. (Education)  
 546, LT 831-832
- HB 1214**, establishing a study committee to identify and assess community-based, educational and social/human services programs that serve families with children 8 years old and younger. (Education)  
**New title:** establishing a committee to study certain educational and social service issues.  
 227, LT 832, am 1368-1370, psd 1388, H conc 1452, enr 1464 (Chapter 170)
- HB 1215**, relative to the winter maintenance of Diamond Pond Road in the towns of Colebrook and Stewartstown. (Transportation and Interstate Cooperation)  
 546, psd 1011, 1038, enr am 1424, enr 1464 (Chapter 175)
- HB 1216**, relative to the sale of unpasteurized milk. (Environment and Wildlife)  
 546, K 1205
- HB 1217**, requiring the secretary of state to publish certain information on campaign contributions. (Internal Affairs)  
 460, psd 778, 821, enr 914 (Chapter 57)
- HB 1220**, establishing a committee to study a statewide review of all unanticipated fatalities and serious injury involving incapacitated adults and individuals 60 years or older. (Executive Departments and Administration)  
 227, LT 1206
- HB 1221-FN**, relative to recovery of medical assistance. (Judiciary)  
 272, LT 872
- HB 1222-FN**, relative to unlawful voting. (Internal Affairs)  
 272, psd (2 RCs) 778-784, 821, enr 914 (Chapter 68)
- HB 1223-FN**, relative to the use of real estate brokers by the department of transportation. (Capital Budget)  
 546, am 930-931, psd 1038, H conc 1452, enr 1571 (Chapter 194)
- HB 1225-FN-A**, relative to the judicial branch family division for the Henniker and Hillsborough District Courts. (Judiciary)  
 273, psd 515, 542, enr 751 (Chapter 25)
- HB 1226-FN**, relative to the New Hampshire Humanities Council. (Finance)  
 227, psd 688, 753, enr 757 (Chapter 34)

- HB 1227-FN**, relative to late fees and reinstatement fees paid by business entities. (Finance)  
756, psd 849-850, 912, enr 1041 (Chapter 81)
- HB 1228-FN**, relative to the sale or lease of state-owned real estate. (Finance)  
**New title:** relative to the sale or lease of state-owned real estate and relative to penalties under the real estate practice act.  
227, am 802-803, psd 821, H conc 1041, enr 1191 (Chapter 98)
- HB 1231-FN**, relative to the penalty for assaulting a firefighter, licensed emergency medical care provider, or law enforcement officer. (Public and Municipal Affairs)  
273, psd 896, 912, enr am 1424, enr 1572 (Chapter 197)
- HB 1235-FN**, establishing a criminal penalty for driving a commercial motor vehicle while violating an out-of-service order. (Transportation and Interstate Cooperation)  
460, K 1011-1012
- HB 1238-FN**, relative to centralized voter registration database information. (Internal Affairs)  
**New title:** relative to centralized voter registration database information and relative to interference with campaign communications.  
460, am 864-870, psd 912, H nonconc, conf 1409-1410, rep adop 1499-1502, 1576, enr am 1593-1594, enr 1612 (Chapter 305)
- HB 1241-FN-L**, extending the kindergarten construction aid program. (Education)  
756, Finance 931-934, am (RC) 1061-1067, psd 1189, H conc 1452, enr 1572 (Chapter 198)
- HB 1243-FN**, reducing certain fines for motor vehicle violations. (Finance)  
546, am 850-852, psd 912, H conc 1392, enr am 1594-1595, enr 1610 (Chapter 259)
- HB 1248-FN**, relative to the alteration of a portion of the town line between Milford and Amherst. (Public and Municipal Affairs)  
114, motion to take out of order 132, psd 134, 135, enr 190 (Chapter 4)
- HB 1249-FN-A-L**, relative to state reimbursement for school breakfasts and making an appropriation therefor. (Education)  
756, Finance 934, psd 1067, 1189, enr 1450 (Chapter 127)
- HB 1260**, relative to informing first-time driver's license applicants of the controlled drug laws. (Transportation and Interstate Cooperation)  
546, psd 1231-1232, 1388, enr 1462 (Chapter 143)
- HB 1262**, legalizing actions taken at town meeting relative to increasing the board of selectmen from 3 members to 5 members in the town of Pittsfield. (Public and Municipal Affairs)  
114, motion to take out of order 132, psd 134, 135, enr 190 (Chapter 3)
- HB 1264**, establishing an advisory committee to study the information practices act and establishing a temporary moratorium on reports filed under the information practices act. (Executive Departments and Administration)  
273, LT 795
- HB 1265**, establishing the council on the relationship between public health and the environment. (Environment and Wildlife)  
**New title:** extending the final report date of the commission to study the relationship between public health and the environment.  
549, am 943-944, psd 1038, H conc 1452, enr 1572 (Chapter 199)
- HB 1269**, relative to the taking of red deer or elk. (Environment and Wildlife)  
356, LT 838-839
- HB 1273**, relative to the disposition and retention of municipal records and legalizing the September 13, 2005 special meeting of the town of Brookline. (Executive Departments and Administration)  
**New title:** relative to the disposition and retention of municipal records, legalizing the September 13, 2005 special meeting of the town of Brookline, legalizing the March 14, 2006 vote by the town of East Kingston to approve a bond financing a new police station, and legalizing the March 2006 Article 2 petitioned warrant article of the town of Sandown.  
356, am, rules suspended, & psd 1206-1208, 1388, H conc 1450, enr 1451 (Chapter 119)

- HB 1274**, relative to certain disclosures to the department of health and human services. (Health and Human Services)  
546, am 1245, psd 1388, H conc 1452, enr 1572 (Chapter 226)
- HB 1278**, increasing the fine for violating certain laws relative to labor. (Banks and Insurance)  
460, psd 1168-1169, 1189, enr 1451 (Chapter 128)
- HB 1279**, establishing a commission to study state medicaid reimbursement. (Ways and Means)  
227, LT 741-742
- HB 1283**, relative to sheep and goat identification requirements. (Environment and Wildlife)  
227, psd 405, 458, enr 541 (Chapter 15)
- HB 1285**, making certain technical corrections to the adoption statute. (Judiciary)  
**New title:** relative to adoption.  
228, am 1254-1255, psd 1388, H conc 1452, enr 1572 (Chapter 200)
- HB 1289**, relative to Pennichuck Brook and its watershed. (Energy and Economic Development)  
754, K 1194-1195
- HB 1294**, relative to antique snowmobiles. (Environment and Wildlife)  
273, am 790-791, psd 821, H conc 1041, enr 1191 (Chapter 99)
- HB 1295**, requiring notification regarding brake shift interlock and key positions by automobile dealers to consumers. (Transportation and Interstate Cooperation)  
**New title:** relative to notice brake shift interlock and key positions by automobile dealers to consumers.  
546, am 1294-1296, psd 1389, H conc 1452, enr 1572 (Chapter 201)
- HB 1296**, relative to the voluntary scrapie flock certification program. (Environment and Wildlife)  
228, psd 405-406, 458, enr 750 (Chapter 26)
- HB 1298**, establishing a study committee to evaluate disciplinary procedures of the board of medicine. (Executive Departments and Administration)  
546, LT 795, am 1372-1374, psd 1389, H nonconc 1454
- HB 1305-L**, authorizing cities to adopt certain bylaws and ordinances relative to businesses obtaining city permits. (Public and Municipal Affairs)  
**New title:** authorizing municipalities to adopt regulations relative to businesses obtaining municipal permits.  
273, am 1271-1272, psd 1389, H conc 1452, enr 1572 (Chapter 202)
- HB 1307**, relative to application requirements for motor vehicle recycling yard licenses. (Transportation and Interstate Cooperation)  
356, psd 1012, 1038, enr 1191 (Chapter 100)
- HB 1311-FN-A**, relative to the electronic filing of reports and applications with the secretary of state. (Internal Affairs)  
756, Finance 971, K 1067
- HB 1313**, naming a bridge between the towns of Newfields and Stratham the United States Submarine Veterans of World War II Memorial Bridge. (Public and Municipal Affairs)  
356, psd 896-897, 912, enr 1041 (Chapter 80)
- HB 1315**, relative to the definition and classification of dams. (Environment and Wildlife)  
**First new title:** relative to the definition and classification of dams and relative to the acceptance of Jericho Lake Dam and dike in Berlin.  
**Second new title:** relative to the definition and classification of dams, the acceptance of Jericho Lake dam and dike in Berlin, the fish and game department's acquisition of property rights to Big Brook Bog dam in Pittsburg, and the study of potential sources of funding for the repair and maintenance of dams by the state.  
546, am & Finance 944-947, am 1067-1069, psd 1189, H nonconc, conf 1447, rep adop 1502-1504, 1576, enr am 1595, enr 1612 (Chapter 306)

- HB 1317**, relative to the control or eradication of exotic aquatic weeds and requiring a review by the department of agriculture, markets, and food, the department of environmental services, the fish and game department, and the department of resources and economic development, evaluating the current permitting process for special permits for aquatic applications of pesticides to control or eradicate exotic aquatic weeds and making recommendations to improve the process. (Environment and Wildlife)  
546, psd 1205, 1389, enr 1462 (Chapter 144)
- HB 1320**, relative to penalties for planning and zoning violations. (Public and Municipal Affairs)  
460, psd 1008-1009, 1038, enr 1191 (Chapter 101)
- HB 1324**, relative to the commission to study the state park system. (Environment and Wildlife)  
546, psd 839, 912, enr 1041 (Chapter 82)
- HB 1330**, clarifying the laws relative to municipal enrollment in the National Flood Insurance Program and relative to adopting flood insurance rate map amendments. (Public and Municipal Affairs)  
460, psd 1009, 1038, enr am 1425, enr 1464 (Chapter 176)
- HB 1331**, relative to the New Hampshire Temporary Assistance to Needy Families (TANF) program. (Finance)  
**New title:** relative to the New Hampshire Temporary Assistance to Needy Families (TANF) program, and making an appropriation therefor.  
756, am (2 RCs) 1326-1351, psd 1389, H nonconc, conf 1434, 1463, rep adop 1504-1510, 1576, enr am 1595-1596, enr 1612 (Chapter 325)
- HB 1332**, establishing a commission to study health care in New Hampshire correctional facilities. (Judiciary)  
228, LT 872, am 1380-1382, psd 1389, H nonconc, conf 1439, rep adop 1510-1511, 1576, (Unable to agree)
- HB 1333**, relative to solid waste reduction goals. (Environment and Wildlife)  
549, K 1234
- HB 1334**, establishing a committee to study the effect on the unemployment compensation trust fund of employers with negative balance separate accounts. (Banks and Insurance)  
273, LT 785, am 1366-1368, psd 1389, H nonconc, conf 1431, (K – conf rep not signed)
- HB 1335**, relative to the authority of law enforcement officers during a state of emergency. (Judiciary)  
**First new title:** relative to the authority of law enforcement officers during a state of emergency and prohibiting the taking of arms and ammunition in a declared state of emergency.  
**Second new title:** relative to the authority of law enforcement officers during a state of emergency.  
549, am (RC) 999-1001, psd 1038, H conc 1452, enr am 1596, enr 1610 (Chapter 280)
- HB 1337**, establishing the amusement ride safety advisory board. (Executive Departments and Administration)  
549, am & Finance 950-951, psd 1069, 1189, H conc 1452, enr 1572 (Chapter 203)
- HB 1343**, relative to the duties of the council on resources and development. (Capital Budget)  
**New title:** relative to the duties of the council on resources and development, and making bonded appropriations to the department of environmental services and the New Hampshire veteran's home.  
546, am 1187-1188, psd 1189, H nonconc, conf 1445, rep adop (RC) 1511-1516, 1576, remarks 1574-1575, enr am 1597, enr 1612 (Chapter 307)
- HB 1346**, requiring certain persons to keep the contents of prescriptions confidential. (Executive Departments and Administration)  
356, am (2 RCs) 1237-1242, psd 1389, H conc 1452, enr 1610 (Chapter 328)
- HB 1349**, relative to costs of personnel and rates for equipment use in hazardous waste incidents. (Public and Municipal Affairs)  
460, am 811-812, psd 821, H conc 1041, enr 1191 (Chapter 102)

- HB 1351**, relative to the rulemaking process. (Executive Departments and Administration)  
549, psd 1242-1243, 1389, enr 1462 (Chapter 145)
- HB 1356**, relative to on-board diagnostic system inspections. (Transportation and Interstate Cooperation)  
549, psd 910-911, 912, enr 1041 (Chapter 83)
- HB 1357**, relative to the legislative facilities committee. (Internal Affairs)  
549, psd 1219, 1389, enr 1462 (Chapter 146)
- HB 1361**, relative to the penalty for shoplifting. (Judiciary)  
273, psd 872-873, 912, enr 1041 (Chapter 84)
- HB 1362**, relative to permitting audio and video recording on school buses. (Education)  
228, psd 785-786, 821, enr 914 (Chapter 69)
- HB 1366**, relative to a planning board's authority to require public access to open space as a condition of subdivision approval. (Public and Municipal Affairs)  
756, K 1272-1273
- HB 1370**, transferring certain surplus moneys to the revenue stabilization reserve account. (Finance)  
273, psd (RC) 613, 753, enr 757 (Chapter 35)
- HB 1373**, establishing a commission to study ways to encourage the proper recycling and disposal of grease trap wastes and to determine ways to develop additional disposal capacity. (Environment and Wildlife)  
549, LT 1205, am 1374-1376, psd 1389, H nonconc, conf 1431-1432, rep adop 1516, 1576, enr 1612 (Chapter 261)
- HB 1376**, relative to the duties of the legislative oversight committee on electric utility restructuring. (Energy and Economic Development)  
273, LT 787-788
- HB 1377**, relative to certain mandatory minimum sentences. (Judiciary)  
550, psd 1255, 1389, enr 1462 (Chapter 163)
- HB 1386**, relative to exceptions to the prohibition on carrying and selling knives. (Judiciary)  
550, am 1255-1256, psd 1389, H conc 1453, enr 1572 (Chapter 227)
- HB 1394**, relative to determination of value of property in current use. (Public and Municipal Affairs)  
550, psd 1009, 1038, enr 1191 (Chapter 103)
- HB 1402**, establishing the standard of care for certain individuals or nonprofit entities in constructing, maintaining, or improving trails for public recreational use, and establishing a committee to study the standard of care applicable to landowners, lessees, and occupants for the use of public recreational land. (Environment and Wildlife)  
**New title:** establishing the standard of care for certain individuals or nonprofit entities in constructing, maintaining, or improving trails for public recreational use. 114, motion to take out of order 132, am 132-133, psd 135, H conc 189, enr 190 (Chapter 5)
- HB 1403**, relative to explanations of proposed constitutional amendments appearing on the ballot. (Internal Affairs)  
460, K 1219
- HB 1407-FN-A**, relative to funding exotic aquatic weeds eradication and control. (Environment and Wildlife)  
460, am & Finance 839-842, am (RC) 1069-1072, psd 1189, H nonconc, conf 1447-1448, rep adop 1517, 1576, enr 1612 (Chapter 281)
- HB 1409-FN**, relative to organ and tissue donation. (Health and Human Services)  
273, LT 809
- HB 1410-FN-L**, relative to the cost to counties of convicted inmates awaiting sentencing in a county correctional facility. (Finance)  
273, am 954-955, psd 1038, H nonconc 1454
- HB 1417-FN**, establishing gold star number plates. (Transportation and Interstate Cooperation)



- New title:** establishing gold star number plates and relative to special number plates for veterans.  
356, LT 1012-1015, am (RC) 1033-1035, psd 1038, H conc 1453, enr am 1597-1598, enr 1611 (Chapter 262)
- HB 1418-FN**, relative to road toll refunds. (Ways and Means)  
356, Finance 742, psd 804, 821, enr 914 (Chapter 58)
- HB 1419-FN**, relative to mediation in divorce proceedings. (Judiciary)  
273, am 1001, psd 1038, H conc 1392, enr 1462 (Chapter 147)
- HB 1420-FN**, prohibiting remote control and Internet hunting and relative to exceptions to the prohibitions on the sale of firearms to minors and the furnishing of arms to persons under 16. (Environment and Wildlife)  
550, LT 791-792, am 793-794, psd 821, H conc 1041, enr 1042 (Chapter 73)
- HB 1424**, relative to persons permitted to attend child abuse and neglect hearings. (Judiciary)  
273, am 1226, psd 1389, H conc 1453, enr 1572 (Chapter 228)
- HB 1426**, granting a right-of-way over state-owned land. (Capital Budget)  
546, moved to end of day 931, am 1030-1033, psd 1038, H nonconc, conf 1445-1446, rep adop 1517, 1576, enr 1612 (Chapter 263)
- HB 1427**, relative to guiding principles for developmentally disabled services. (Health and Human Services)  
273, am 1245-1246, psd 1389, H conc 1453, enr 1572 (Chapter 229)
- HB 1429**, relative to municipal exemptions for hazardous waste cleanup liability. (Public and Municipal Affairs)  
**New title:** relative to municipal exemptions for hazardous waste cleanup liability and preventing the exemption of privately-owned landfills and ancillary facilities from property taxes.  
550, Finance 812, am 1072-1076, psd 1189, H nonconc, conf 1434, rep adop 1517-1518, 1576, enr 1612 (Chapter 282)
- HB 1433**, establishing a committee to study secured landfills and establishing a moratorium on the incineration of construction and demolition waste. (Energy and Economic Development)  
**New title:** establishing a moratorium on the incineration of construction and demolition waste.  
546, am 836-837, psd 912, H conc 1453, enr 1464 (Chapter 186)
- HB 1435**, relative to the emergency plan for service animals. (Public and Municipal Affairs)  
**New title:** relative to the emergency plan for service animals and establishing a commission to study the evacuation and housing of animals during an emergency.  
356, am 1227-1229, psd 1389, H conc 1453, enr 1572 (Chapter 230)
- HB 1436-L**, authorizing municipal and county biennial budgets for a 24-month period. (Public and Municipal Affairs)  
273, psd (RC) 1273-1275, 1389, enr 1462 (Chapter 148)
- HB 1437**, establishing a committee to study the effects of current state and federal laws on illegal drugs and the possession and use of such drugs. (Health and Human Services)  
273, K 1246-1247
- HB 1444-FN**, relative to definitions under the real estate transfer tax. (Ways and Means)  
357, psd 1233-1234, 1389, enr 1462 (Chapter 149)
- HB 1446**, requiring the department of resources and economic development to prepare and submit a management and financial plan to the general court and the public prior to the opening of the Berlin regional ATV park. (Environment and Wildlife)  
550, LT 947
- HB 1448**, relative to the applicability of drivers' license revocations for drugs or alcohol involvement. (Transportation and Interstate Cooperation)  
**New title:** relative to the applicability of drivers' license revocations for drugs or alcohol involvement and relative to the medical/vision advisory board.  
550, am 1232, psd 1389, H conc 1453, enr 1572 (Chapter 204)

- HB 1452-FN**, requiring insurance coverage for the cost of testing for bone marrow donation. (Banks and Insurance)  
546, psd (RC) 830-831, 912, enr am 1425-1426, enr 1464 (Chapter 187)
- HB 1455-FN-A**, relative to the disposal of video display devices. (Environment and Wildlife)  
550, psd 792, 821, enr am 1426, enr 1464 (Chapter 171)
- HB 1458-FN**, relative to the regulation of landscape architects. (Finance)  
273, psd (RC) 1076-1083, 1189, enr am 1458, enr 1574 (Chapter 246)
- HB 1459-FN-A**, relative to the department of regional community-technical colleges and making an appropriation therefor. (Finance)  
**First new title:** making an appropriation to the department of regional community-technical colleges for tuition maintenance; authorizing the temporary use of the department of regional community-technical colleges nonlapsing account for tuition maintenance; and making a bonded capital appropriation to the department of regional community-technical colleges for construction of a health education center nursing wing at the New Hampshire technical institute in Concord.  
**Second new title:** making an appropriation to the department of regional community-technical colleges for tuition maintenance; authorizing the temporary use of the department of regional community-technical colleges nonlapsing account for tuition maintenance; and authorizing the use of the department of regional community-technical colleges' nonlapsing account for construction of a health education center nursing wing at the New Hampshire technical institute in Concord.  
756, am (3 RCs) 1083-1094, psd 1189, H nonconc, conf 1435, rep adop 1518-1519, 1576, enr am 1598-1599, enr 1612 (Chapter 323)
- HB 1461**, establishing a task force to study Temporary Assistance to Needy Families (TANF) benefits. (Health and Human Services)  
**New title:** establishing a task force to study Temporary Assistance to Needy Families (TANF).  
228, am 1247-1248, psd 1389, H conc 1453, enr 1574 (Chapter 247)
- HB 1463-FN**, relative to boating and water safety. (Transportation and Interstate Cooperation)  
550, am 1015-1017, psd 1038, H nonconc, conf 1450, rep adop 1519-1520, 1576, enr 1612 (Chapter 283)
- HB 1464-FN-A-L**, relative to mosquito control, establishing a mosquito control fund and making an appropriation therefor. (Environment and Wildlife)  
**New title:** relative to mosquito control, establishing a mosquito control fund, making an appropriation therefor, and relative to a public health response to arbovirus.  
756, Finance 842, am 1094-1098, psd 1189, H conc 1453, enr am 1599, enr 1610 (Chapter 284)
- HB 1465-FN**, relative to food stamp overpayments. (Finance)  
357, psd 852, 912, enr 1041 (Chapter 85)
- HB 1468-FN-L**, relative to Reservoir Road in the town of Deering and Lyme Road in the town of Hanover. (Transportation and Interstate Cooperation)  
228, psd 451, 458, enr 541 (Chapter 16)
- HB 1470**, relative to overweight vehicle permit fees. (Transportation and Interstate Cooperation)  
756, am 1233, psd 1389, H conc 1453, enr 1572 (Chapter 231)
- HB 1471-FN**, repealing the statutes relative to regional highway conferences. (Energy and Economic Development)  
228, psd 479, 542, enr 751 (Chapter 27)
- HB 1474-FN**, relative to unemployment compensation contribution rates and benefits. (Finance)  
**New title:** relative to unemployment compensation contribution rates and benefits and establishing a commission to investigate the feasibility of merging the department of employment security into the department of labor.  
754, am rej, recon & am (4 RCs) 1098-1107, psd 1189, H nonconc, conf 1441-1442, rep adop 1520, 1576, enr am 1600, enr 1612 (Chapter 308)

- HB 1477**, implementing the federal Law Enforcement Officers Safety Act of 2004. (Executive Departments and Administration)  
273, psd (RC) 1208, 1389, enr am 1459, enr 1574 (Chapter 248)
- HB 1478**, relative to penalties for employers who give false or incomplete required information about employees to the department of employment security and establishing an amnesty period for certain unpaid contributions. (Banks and Insurance)  
461, psd 1169, 1189, enr 1451 (Chapter 129)
- HB 1480**, amending the provisions relative to registration of criminal offenders. (Judiciary)  
546, psd 1256, 1389, enr 1462 (Chapter 162)
- HB 1484**, relative to including motorcycle and tractor-trailer safety in driver education courses. (Transportation and Interstate Cooperation)  
357, psd 820, 821, enr 914 (Chapter 59)
- HB 1487**, relative to marriage licenses. (Public and Municipal Affairs)  
546, psd 812-813, 821, enr 1041 (Chapter 86)
- HB 1489**, relative to school emergency response plans. (Education)  
228, am & Finance 786, K 956
- HB 1491**, establishing a committee to study the publicly owned treatment plant needs of New Hampshire. (Energy and Economic Development)  
**First new title:** extending certain deadlines relating to the Great Bay Estuary Commission.  
**Second new title:** extending certain deadlines relative to the Great Bay Estuary Commission and the Estuary Alliance for Sewage Treatment and establishing a commission to study the publicly owned treatment plant needs of New Hampshire and state laboratory water tests and fees.  
546, LT 837-838, am 1035-1037, psd 1038, H nonconc, conf 1446, rep adop 1521-1522, 1576, enr am 1601, enr 1612 (Chapter 309)
- HB 1495**, relative to setback requirements for landfills located near rivers. (Environment and Wildlife)  
756, LT (RC) 1234-1235
- HB 1497-L**, relative to certification by a superintendent regarding statistical reports. (Education)  
273, psd 786, 821, enr 914 (Chapter 60)
- HB 1498**, establishing a risk management unit within the department of administrative services and relative to the rulemaking authority of the department of administrative services. (Executive Departments and Administration)  
228, psd 795-796, 821, enr 914 (Chapter 70)
- HB 1501**, making various changes to the lottery commission. (Ways and Means)  
273, K 1234
- HB 1503**, relative to financial programs administered by the postsecondary education commission. (Education)  
228, psd 467, 542, enr 751 (Chapter 28)
- HB 1506**, requiring children 12 years of age or under to wear personal flotation devices. (Environment and Wildlife)  
546, LT (RC) 948-950
- HB 1508**, relative to acceptance of applications by planning boards. (Public and Municipal Affairs)  
547, am 1276, psd 1390, H nonconc, conf 1449-1450, rep adop 1522-1523, 1576, enr 1612 (Chapter 285)
- HB 1509**, relative to campaign expenditure and contribution limitations. (Internal Affairs)  
357, LT 870-871
- HB 1512**, establishing a committee to study volunteer activity related to transportation. (Transportation and Interstate Cooperation)  
357, LT 820, am 1382-1384, psd 1390, H nonconc 1454
- HB 1516**, relative to the modification and enforcement of child support orders. (Judiciary)  
273, am 1256-1257, psd 1390, H nonconc, conf 1439-1440 (K – conf rep not signed)

- HB 1517-FN**, relative to membership on the board of medicine and the medical review subcommittee. (Executive Departments and Administration)  
547, psd 796, 821, enr 914 (Chapter 61)
- HB 1521**, relative to the membership of the juvenile parole board. (Executive Departments and Administration)  
273, psd 1243, 1390, enr 1462 (Chapter 150)
- HB 1523**, relative to certain rulemaking authority of the commissioner of environmental services. (Executive Departments and Administration)  
756, LT 1243
- HB 1526**, relative to the composition of the medical review subcommittee of the medical review board. (Executive Departments and Administration)  
461, psd 1243, 1390, enr am 1459-1460, enr 1574 (Chapter 249)
- HB 1530**, naming the road to the supreme court and the administrative office of the courts Charles Doe Drive and naming the campus of the supreme court and the administrative office of the courts Charles Doe Place. (Transportation and Interstate Cooperation)  
461, psd 1296, 1390, enr 1463 (Chapter 151)
- HB 1534**, relative to maintaining construction and demolition debris as a solid waste. (Energy and Economic Development)  
547, K (RC) 1195-1196
- HB 1536**, relative to bonds required from persons excavating or disturbing certain highways. (Transportation and Interstate Cooperation)  
547, psd 1017, 1038, enr am 1426, enr 1464 (Chapter 177)
- HB 1539**, establishing a committee to study the shortage in speech language services and the criteria for certification as a speech language specialist. (Education)  
228, LT 1194
- HB 1546**, relative to patient information. (Health and Human Services)  
547, psd 1248, 1390, enr am 1460, enr 1574 (Chapter 250)
- HB 1555**, establishing a commission to investigate cost drivers in providing health care. (Health and Human Services)  
547, LT 1212-1213
- HB 1563**, establishing a committee to study immigration. (Health and Human Services)  
274, K 854
- HB 1565**, relative to evictions in cases involving incidents of domestic violence. (Judiciary)  
547, LT 1001
- HB 1566**, relative to the definitions of resident for motor vehicle law purposes and domicile for voting purposes and relative to vehicle registration and driver's license requirements. (Internal Affairs)  
547, psd (RC) 1219-1224, 1390, enr 1463, H sustained veto 1619
- HB 1567**, relative to removing names from the checklist. (Internal Affairs)  
756, am (2 RCs) 972-976, psd 1038, H conc 1453, enr 1572 (Chapter 243)
- HB 1568**, establishing a committee to study the siting and construction of commercial wind energy facilities. (Energy and Economic Development)  
547, LT 838
- HB 1570**, relative to health insurance coverage for part-time college students. (Banks and Insurance)  
274, LT 1169
- HB 1574**, relative to membership on the public employees deferred compensation commission. (Executive Departments and Administration)  
**New title:** relative to membership on the public employees deferred compensation commission and relative to criminal penalties for certain securities violations.  
547, LT 1243-1244, am 1297-1299, psd 1390, H nonconc, conf 1432, rep adop 1523, 1576, enr am 1601, enr 1612 (Chapter 310)
- HB 1578**, to provide enhanced awareness of and education on methamphetamine to the citizens of New Hampshire. (Education)  
274, LT 934-935

- HB 1579**, relative to membership of the air resources council. (Executive Departments and Administration)  
228, psd 796, 821, enr 914 (Chapter 62)
- HB 1580**, relative to the child support formula. (Ways and Means)  
357, LT & K (4 RCs) 1299-1306
- HB 1581**, relative to drivers' licenses issued to persons under the age of 21. (Transportation and Interstate Cooperation)  
274, am 1296-1297, psd 1390, H conc 1453, enr am 1602, enr 1610 (Chapter 286)
- HB 1582**, prohibiting New Hampshire from participating in a national identification card system. (Public and Municipal Affairs)  
547, am (2 RCs) 1276-1294, psd 1390, rej H conf req (RC) 1443-1444
- HB 1583**, relative to grounds for modification of parental rights and responsibilities. (Judiciary)  
274, am 1257-1258, psd 1390, H conc 1453, enr 1572 (Chapter 232)
- HB 1584**, relative to cemetery setbacks and septic systems. (Public and Municipal Affairs)  
357, psd 897, 912, enr 1041 (Chapter 87)
- HB 1585**, relative to enforcement of orders regarding parenting plans. (Judiciary)  
274, am 1258-1259, psd 1390, H conc 1453, enr 1574 (Chapter 251)
- HB 1588**, relative to unemployment compensation requirements for governmental and non-profit employers. (Banks and Insurance)  
274, psd 1169, 1189, enr 1451 (Chapter 130)
- HB 1589**, establishing a committee to study the feasibility of using certain state-owned buildings as transition housing for 17-year-olds and 18-year-olds who are ready to leave foster care or the youth development center. (Executive Departments and Administration)  
274, LT 1244
- HB 1590-FN**, relative to the pari-mutuel commission. (Executive Departments and Administration)  
754, Finance 844, am 1107-1108, psd 1190, H nonconc, conf 1435, rep adop 1523-1524, 1576, enr 1612 (Chapter 287)
- HB 1592-FN**, making certain changes in the insurance laws. (Banks and Insurance)  
550, LT 921
- HB 1593-FN-L**, relative to the construction of high school athletic fields in the town of Bedford. (Education)  
756, Finance 935, psd 1108, 1190, enr 1451 (Chapter 131)
- HB 1595-FN**, relative to certification of electronic systems technicians by the electricians' board. (Executive Departments and Administration)  
550, K 951-952
- HB 1597-FN-L**, relative to municipal obligations for indigent medical expenses. (Internal Affairs)  
357, LT 976-977
- HB 1603-FN**, relative to administration and enforcement by the division of forests and lands over forest resources and timber harvesting. (Environment and Wildlife)  
547, Finance 842-843, am 1108-1111, psd 1190, H nonconc, conf 1448, rep adop 1524, H LT 1575
- HB 1605-FN**, relative to transfers from the prepaid fish and game license fund. (Ways and Means)  
228, psd 456, 458, enr 541 (Chapter 17)
- HB 1608-FN-A**, making appropriations to reimburse certain health and human services providers for the increased cost of utilities, heating, and mileage. (Finance)  
757, K 1111-1112
- HB 1609-FN**, requiring a pilot project to estimate future water needs and availability. (Energy and Economic Development)  
547, psd 788-789, 821, enr 914 (Chapter 63)

- HB 1611-FN**, relative to reimbursement for personal care services. (Health and Human Services)  
757, Finance 959, psd 1112, 1190, enr 1451 (Chapter 132)
- HB 1612-FN**, relative to the use of lottery revenue as purses for horse and dog racing. (Ways and Means)  
754, am (3 RCs) 1019-1028, psd 1038, H conc 1453, enr 1572 (Chapter 233)
- HB 1613-FN-L**, relative to polling place arrangement and accessibility. (Public and Municipal Affairs)  
550, Finance 813-815, am 956-958, psd 1038, H nonconc, conf 1435-1436 (K – conf rep not signed)
- HB 1620-FN**, relative to hunting restrictions of certain convicted felons. (Judiciary)  
550, LT 873
- HB 1624-FN**, relative to boat noise. (Transportation and Interstate Cooperation)  
550, am & Finance 1017-1018, psd 1112, 1190, H conc 1453, enr 1572 (Chapter 234)
- HB 1625**, establishing penalties for guardians ad litem who fail to file reports which are required by the court. (Judiciary)  
**New title:** establishing penalties for guardians ad litem who fail to file reports.  
550, am 1259-1260, psd 1390, H conc 1453, enr 1572 (Chapter 235)
- HB 1626-FN-A**, relative to appropriations for the expenses of certain departments of the state. (Energy and Economic Development)  
**New title:** relative to appropriations for the expenses of certain departments of the state and establishing a quality early learning opportunity initiative and making an appropriation therefor.  
757, com changed to Finance 824, am (2 RCs) 1112-1120, psd 1190, H nonconc, conf 1436, rep adop 1524, 1576, enr am 1602, enr 1612 (Chapter 258)
- HB 1627**, relative to the assessment of open space land. (Energy and Economic Development)  
461, K 1196
- HB 1630-L**, relative to land use change taxes imposed for certain road construction on rights-of-way. (Environment and Wildlife)  
550, psd 950, 1038, enr am 1426-1427, enr 1572 (Chapter 209)
- HB 1631-FN-L**, relative to property taxation of certain property of the Appalachian Mountain Club. (Public and Municipal Affairs)  
550, K 815-818
- HB 1633-FN**, relative to membership, eligibility, and financing of the New Hampshire retirement system. (Executive Departments and Administration)  
550, psd 796-797, 821, enr am 1427-1428, enr 1464 (Chapter 178)
- HB 1634-FN**, making technical changes to the law governing the New Hampshire retirement system. (Banks and Insurance)  
274, psd 921, 1038, enr 1392 (Chapter 120)
- HB 1636-FN**, relative to appeals from class A misdemeanor sentences imposed by the district courts. (Judiciary)  
357, psd 809-810, 822, enr 914 (Chapter 64)
- HB 1646-FN**, relative to the use of a leashed tracking dog in the recovery of a wounded deer, moose, or bear. (Environment and Wildlife)  
357, psd 792, 822, enr 915 (Chapter 65)
- HB 1648-FN**, relative to legal residency and financial liability for children in certain residential placements. (Judiciary)  
274, Finance 873, am 1120-1123, psd 1190, H conc 1453, enr 1572 (Chapter 236)
- HB 1652-FN**, relative to certain insurance claims. (Banks and Insurance)  
550, psd 921, 1038, enr 1191 (Chapter 104)
- HB 1654-FN**, relative to the probate court mediation fund and fee. (Judiciary)  
274, psd 515-516, 542, enr 751 (Chapter 29)
- HB 1656-FN-A**, establishing an electronic toll collection transponder inventory fund. (Finance)  
357, am 1123-1124, psd 1190, H nonconc 1454

- HB 1657**, establishing a wildlife legacy initiative for gifts and donations for fish and wildlife conservation programs. (Environment and Wildlife)  
228, am 406-407, psd 458, H conc 823, enr am 1428, enr 1464 (Chapter 172)
- HB 1658**, relative to authorizing agreements by the fish and game department with nonprofit partners for the purpose of accepting gifts, grants, bequests, or donations to further department goals. (Ways and Means)  
228, psd 457, 458, enr 541 (Chapter 18)
- HB 1659**, relative to the use of certain small caliber firearms in taking wildlife. (Environment and Wildlife)  
228, psd 407, 458, enr 541 (Chapter 19)
- HB 1660-FN**, regulating identity theft. (Judiciary)  
461, am 873-876, psd 912, H conc 1392, enr am 1460-1461, enr 1574 (Chapter 242)
- HB 1662-FN**, establishing the crime of peonage. (Internal Affairs)  
274, am 871, psd 912, H conc 1453, enr 1572 (Chapter 237)
- HB 1663-FN-L**, relative to the licensing fee for motor vehicle recycling yards. (Energy and Economic Development)  
274, psd 789, 822, enr 915 (Chapter 71)
- HB 1667-FN**, establishing penalties for methamphetamine manufacturing and possession of substances with intent to manufacture methamphetamine. (Judiciary)  
547, am 1002-1005, psd 1038, H conc 1453, enr 1572 (Chapter 241)
- HB 1671-FN**, relative to the regulation of dentists and dental hygienists by the board of dental examiners. (Executive Departments and Administration)  
274, am 844-846, psd 912, H conc 1453, enr 1572 (Chapter 238)
- HB 1672-FN**, relative to a registry for substantiated cases of abuse, neglect, or exploitation of incapacitated adults and establishing a task force relative to central registries. (Health and Human Services)  
**New title:** relative to a registry for founded cases of abuse, neglect, or exploitation of incapacitated adults, relative to certain background checks, and establishing a task force relative to central registries.  
547, am & Finance 959-966, am 1124-1125, psd 1190, H conc 1453, enr am 1599-1600, enr 1611 (Chapter 289)
- HB 1673-FN**, relative to the reduction of mercury emissions. (Energy and Economic Development)  
757, psd (RC) 935-938, 1038, enr 1191 (Chapter 105)
- HB 1674-FN**, requiring emergency care providers to report information on certain sexual assault crimes to law enforcement officials. (Judiciary)  
547, LT 876-877
- HB 1679-FN-L**, relative to the property tax exemption for university system property. (Finance)  
274, am 853-854, psd 912, H conc 1453, enr 1572 (Chapter 205)
- HB 1681-FN**, establishing the unused prescription drug program. (Banks and Insurance)  
357, am 922-923, psd 1038, H conc 1392, enr 1463 (Chapter 152)
- HB 1683-FN**, establishing a homestead food license for residential, non-commercial kitchens. (Health and Human Services)  
547, Finance 854, psd 1125, 1190, enr 1451 (Chapter 133)
- HB 1687**, extending certain studies and adding a certain duty relative to pharmacy reimbursement. (Health and Human Services)  
754, LT 1213, psd 1230, 1390, enr am 1461, enr 1574 (Chapter 252)
- HB 1688**, prohibiting the use of gasoline-powered watercraft on Head's Pond in Hooksett. (Environment and Wildlife)  
228, am 843, psd 912, H conc 1392, enr 1463 (Chapter 161)
- HB 1690**, relative to renewable energy. (Energy and Economic Development)  
274, am, recon, am & Finance 938-943, am (2 RCs) 1351-1360, recon & am 1384-1386, psd 1390, H nonconc, conf 1448-1449 (K – conf rep not signed)
- HB 1692-FN**, establishing the New Hampshire sexual predators act. (Judiciary)  
757, am (RC) 824-830, psd 912, H nonconc, conf 1440, rep adop (RC) 1525-1527, 1576, enr am 1603-1605, enr 1612 (Chapter 327)

- HB 1696-FN**, relative to the cremation of human remains. (Public and Municipal Affairs) 550, am & Finance 897-909, psd 1125, 1190, H conc 1453, enr am 1606, enr 1610 (Chapter 288)
- HB 1697-FN**, relative to certain state salaries. (Executive Departments and Administration)  
**New title:** relative to certain state salaries; establishing the position of director of homeland security and emergency management in the department of safety; authorizing the commissioner of safety to reorganize certain divisions, responsibilities, and activities of the department; relative to appeals of reclassification of positions; relative to a study of the unclassified salary schedule; and relative to the registration of apprentices by the board of barbering, cosmetology, and esthetics. 757, Finance 846, am, recon & am (2 RCs) 1125-1129, psd 1190, H nonconc, conf 1436-1437, rep adop 1528-1531, 1576, enr am 1606-1607, enr 1613 (Chapter 290)
- HB 1709-FN**, establishing an autism registry in the department of health and human services. (Health and Human Services) 357, psd 966, 1038, enr 1191 (Chapter 106)
- HB 1710-FN-A**, relative to appropriations to the department of health and human services for home care providers and community mental centers and making an appropriation to increase the hourly rate of pay for direct care providers for persons with developmental and acquired disabilities and extending the provision of supplemental pharmacy assistance. (Finance)  
**New title:** making an appropriation to the department of health and human services for home care providers. 757, am, recon & am (2 RCs) 1129-1135, psd 1190, H nonconc, conf 1437, rep adop 1531-1532, 1577, enr 1613 (Chapter 264)
- HB 1711-FN**, relative to the regulation of fuel gas fitters. (Executive Departments and Administration) 547, am (RC) 923-930, psd 1038, H conc 1453, enr 1573 (Chapter 206)
- HB 1713-FN**, restricting the over-the-counter sale of pseudoephedrine base and ephedrine base drugs and establishing commission to study the feasibility of an electronic tracking system for sales of pseudoephedrine base and ephedrine base drugs. (Health and Human Services) 274, LT 966-967
- HB 1715-FN**, relative to funding of the professional assistance program of dentists. (Executive Departments and Administration) 461, psd 797, 822, enr am 1428, enr 1464 (Chapter 173)
- HB 1718-FN**, requiring a written disclosure statement be provided to prospective nursing home facility clients. (Health and Human Services) 550, psd 854-855, 912, enr am 1429, enr 1573 (Chapter 239)
- HB 1720-FN**, relative to notice of parent liability in CHINS proceedings. (Judiciary) 274, am 1005-1006, psd 1038, H nonconc, conf 1440, rep adop 1532-1533, 1577, enr 1613 (Chapter 291)
- HB 1722-FN**, relative to the New Hampshire council on developmental disabilities. (Executive Departments and Administration) 357, psd 846-847, 912, enr am 1429-1430, enr 1464 (Chapter 179)
- HB 1724-FN**, relative to compensation and benefits for reserve and national guard members who are state employees. (Finance)  
**New title:** relative to compensation and benefits for reserve and national guard members who are state employees and amending certain capital appropriations to the adjutant general. 274, am 804-805, psd 822, H nonconc, conf 1407, rep adop 1533-1534, 1577, enr 1613 (Chapter 272)
- HB 1725-FN**, extending the pilot project relative to abuse and neglect hearings and relative to confidentiality in pilot project abuse and neglect cases. (Judiciary) 274, Finance 877, psd 1135, 1190, enr 1451 (Chapter 134)
- HB 1727-FN-L**, relative to transfer or discharge of patients or residents in licensed facilities. (Health and Human Services) 274, am 967, psd 1039, H conc 1392, enr 1463 (Chapter 153)



- HB 1733-FN**, establishing a reporting system for court decisions relative to residential responsibility under parenting plans. (Judiciary)  
275, K 1006-1007
- HB 1735-FN**, relative to awarding the state employees' health insurance plan. (Executive Departments and Administration)  
757, am & Finance 952-953, psd 1135, 1190, H conc 1454, enr 1573 (Chapter 207)
- HB 1738-FN**, prohibiting the use of surveillance devices to identify motor vehicles. (Transportation and Interstate Cooperation)  
757, psd 1019, 1039, enr 1191 (Chapter 107)
- HB 1741-FN**, relative to reporting requirements concerning infections in hospitals. (Health and Human Services)  
757, am & Finance 967-968, psd (RC) 1135-1136, H conc 1454, enr am 1607, enr 1610 (Chapter 292)
- HB 1744-FN-A**, authorizing the pari-mutuel commission to regulate games of chance conducted by charitable organizations and relative to tournaments conducted by charitable organizations where chips have no monetary face value. (Ways and Means)  
757, am 1028-1030, psd 1039, H nonconc, conf 1442, rep adop 1534-1535, 1577, enr am 1607-1608, enr 1613 (Chapter 311)
- HB 1745-FN**, relative to methamphetamine-related crimes involving children and incapacitated adults. (Judiciary)  
550, Finance 1007, psd 1136, 1190, enr 1451 (Chapter 135)
- HB 1747-FN**, establishing a New Hampshire healthy tidal waters and shellfish protection program and making an appropriation therefor. (Environment and Wildlife)  
357, Finance 794, am 1136-1137, psd 1190, H conc 1454, enr am 1608, enr 1610 (Chapter 293)
- HB 1749-FN**, relative to access to motor vehicle records by certain defense contractors. (Judiciary)  
754, psd 1007, 1039, enr 1191 (Chapter 108)
- HB 1751**, relative to penalties for failure to have workers' compensation coverage. (Banks and Insurance)  
461, LT 1170-1171, 1387
- HB 1752**, requiring notice regarding the classifications of employee and independent contractor. (Banks and Insurance)  
754, am 1171-1187, psd 1190, recon motion 1194, recon rej (RC) 1204, H nonconc, conf 1444-1445, 1463, rep adop (RC) 1535-1553, H LT 1575
- HB 1754**, relative to canteen privileges at veterans' clubs licensed by the liquor commission. (Public and Municipal Affairs)  
357, am 818-819, psd 822, H conc 1041, enr 1191 (Chapter 109)
- HB 1756**, relative to alternative regulation of small incumbent local exchange carriers. (Energy and Economic Development)  
547, psd 1196-1197, 1390, enr 1463 (Chapter 154)
- HB 1758**, classifying biodiesel as a renewable energy source. (Energy and Economic Development)  
**New title:** classifying bio-oil, bio synthetic gas, and biodiesel as renewable energy sources and relative to taxation of renewable generation facilities.  
551, am (RC) & LT 1197-1204, am (RC) 1215-1219, psd 1390, H nonconc, conf 1447, rep adop 1553, 1577, enr 1613 (Chapter 294)
- HB 1761**, relative to hold over tenants in vacation or recreational rental units. (Judiciary)  
**New title:** relative to hold over tenants in vacation or recreational rental units and relative to lobbyist reporting requirements.  
547, am 1260-1263, psd 1390, H nonconc, conf 1440-1441, rep adop 1553-1555, 1577, enr am 1608-1609, enr 1613 (Chapter 312)
- HB 1763**, extending a committee and adding certain duties relative to pharmacy reimbursement. (Health and Human Services)  
357, LT 1213-1214, psd 1230, 1390, enr am 1461-1462, enr 1574 (Chapter 253)
- HB 1764**, relative to the committee to study medicaid reimbursement rates for pharmacy providers. (Health and Human Services)  
357, psd 1214, 1390, enr 1463 (Chapter 155)

- HB 1765-FN-A-L**, relative to funding for disaster relief efforts in response to the October 2005 floods and making an appropriation therefor.  
357, psd (2 RCs) 805-808, 822, enr 915 (Chapter 42)
- HB 1767-FN-A**, authorizing the state acquisition of real estate destroyed in the October 2005 floods, establishing a commission to determine the appropriate use of the property, and making an appropriation therefor. (Finance)  
757, am (2 RCs) 1360-1366, psd 1390, H nonconc, conf 1449, rep adop 1555, 1577, enr 1613 (Chapter 256)
- HB 1768-FN**, establishing a committee to study the effects of rescinding the charter of the New Hampshire Bar Association, and relative to the regulation of attorneys by the supreme court. (Executive Departments and Administration)  
547, LT 797
- HB 2006**, relative to the state 10-year transportation improvement plan, the exemption of highway projects from eminent domain, improvements on the FE Everett Turnpike/I-293 and certain segments of N.H. 101, and a bridge crossing the Merrimack. (Capital Budget)  
**New title:** relative to the state 10-year transportation improvement plan, the exemption of highway projects from eminent domain, improvements on the FE Everett Turnpike/I-293 and certain segments of N.H. 101, a bridge crossing the Merrimack, and establishing a study committee.  
915-916, rules suspended 1044, am 1394-1396, psd 1451, H conc 1454, enr 1573 (Chapter 240)

## 2005 HOUSE JOINT RESOLUTION

- HJR 1**, recognizing that Seavey Island and the Piscataqua River are within the boundaries of the state of New Hampshire. (Energy and Economic Development)  
24, psd 233, 269, enr 275 (Chapter 10)

## 2006 HOUSE JOINT RESOLUTIONS

- HJR 20**, supporting stem cell research. (Health and Human Services)  
754, LT (RC) 968-969
- HJR 21**, urging the university of New Hampshire to restore intercollegiate baseball and softball. (Education)  
461, psd (RC) 832-836, 912, enr 1041 (Chapter 88)
- HJR 22**, in recognition and support of New Hampshire's participation in the Experimental Program to Stimulate Competitive Research. (Public and Municipal Affairs)  
228, psd 1009-1010, 1039, enr 1191 (Chapter 110)
- HJR 23**, designating a Purple Heart Trail spur to the New Hampshire state veterans cemetery and providing additional signs for the Purple Heart Trail. (Transportation and Interstate Cooperation)  
357, psd (RC) 613-614, 753, enr 758 (Chapter 36)
- HJR 24**, supporting efforts for commuter rail in the state of New Hampshire. (Transportation and Interstate Cooperation)  
275, LT (RC) 475-476, recon & LT (RC) 478
- HJR 25**, encouraging the United States Congress to propose an amendment to the Constitution concerning eminent domain. (Public and Municipal Affairs)  
548, psd (RC) 1010, 1039, enr 1191 (Chapter 111)

## 2005 HOUSE CONCURRENT RESOLUTION

- HCR 8**, urging the Congress of the United States to place a moratorium on new free trade agreements, to investigate and review current free trade agreements and policies of the United States, to investigate and review participation of the United States with international trade organizations and to ensure that such agreements, policies, and participation are in the best interests of the citizens of the state of New Hampshire and the United States. (Internal Affairs)  
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**2006 HOUSE CONCURRENT RESOLUTIONS**

- HCR 20**, commending the New Hampshire committee for Employer Support of the Guard and Reserve. (Executive Departments and Administration)  
461, adop (RC) 953-954, 1039
- HCR 22**, relative to the right to pursue a livelihood in natural resources industries. (Internal Affairs)  
357, adop 871, 912
- HCR 25**, urging the United States to withdraw funding for the United Nations if the United Nations adopts a resolution in violation of the United States Constitution. (Energy and Economic Development)  
461, LT 1204

**CONSTITUTIONAL AMENDMENT  
CONCURRENT RESOLUTIONS**

- CACR 30**, relating to limits on the taking of private property. Providing that a person's property shall not be taken by eminent domain if the taking is for private use. (Finance)  
757, adop (RC) 958, 1039
- CACR 41**, relating to representative districts. Providing that representative districts shall be apportioned according to specified standards. (Internal Affairs)  
548, adop (RC) 1224-1226, 1390, enr am 1456-1457
- CACR 43**, relating to the cost of education. Providing that the legislature shall determine and define the content, extent, and funding of education. (Gatsas, Dist 16; et al: Finance)  
**New title:** relating to public education. Providing that the legislature shall have the authority to make reasonable determinations of the content, extent, funding, and delivery of public education.  
462, am & LT (RC) 554-564
- CACR 44**, relating to limits on the taking of private property. Providing that a person's property shall not be taken by eminent domain if the taking is for private use. (Green, Dist 6; Giuda, Graf 5: Finance)  
462, adop (2 RCs) 564-572, 752, H nonconc 1043

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